

THE
T R I A L
OF
LAWRENCE EARL *FERRERS*,
FOR THE
MURDER of *JOHN JOHNSON*,
Before the RIGHT HONOURABLE
The H O U S E of P E E R S,
IN
WESTMINSTER-HALL, in Full PARLIAMENT,

On WEDNESDAY the 16th, THURSDAY the 17th, and FRIDAY the 18th
of *April*, 1760: On the last of which Days, Judgment for MURDER
was given against him.

Published by Order of the HOUSE of PEERS.

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Wednesday, April the 16th, 1760.

In the Court erected in WESTMINSTER-HALL, for the TRIAL of *LAWRENCE* Earl *FERRERS*, for the Murder of *John Johnson*.

ABOUT Eleven of the Clock the Lords came from their own House into the Court erected in *Westminster-Hall*, for the Trial of *Lawrence* Earl *Ferrers*, in the Manner following:

The Lord High Steward's Gentlemen Attendants, Two and Two.
The Clerks Assistant to the House of Lords, and the Clerk of the Parliament.
Clerk of the Crown in Chancery, bearing the King's Commission to the Lord High Steward, and the Clerk of the Crown in the King's Bench.
The Masters in Chancery, Two and Two.
The Judges, Two and Two.
The Peers eldest Sons, Two and Two.
Peers Minors, Two and Two.
York and *Windsor* Heralds.
Four Serjeants at Arms with their Maces, Two and Two.
The Yeoman Usher of the House.
Then the Peers, Two and Two, beginning with the youngest Baron.
Then Four Serjeants at Arms with their Maces, Two and Two.
The Serjeant at Arms attending the Great Seal, and Purse-Bearer.
Then *Garter* King at Arms, and the Gentleman Usher of the Black Rod, carrying the White Staff before the Lord High Steward.

Robert Lord *Henley*, Lord Keeper of the Great Seal of *Great Britain*, Lord High Steward, alone; his Train borne.

When the Lords were placed in their proper Seats, and the Lord High Steward upon the Woolpack ;

The Clerk of the Crown in Chancery, having his Majesty's Commission to the Lord High Steward in his Hand, and the Clerk of the Crown in the King's Bench, standing before the Clerk's Table with their Faces towards the State, made Three Reverences ; the First at the Table, the Second in the Midway, and the Third near the Woolpack ; then kneeled down ; and the Clerk of the Crown in Chancery, on his Kneè, presented the Commission to the Lord High Steward, who delivered the same to the Clerk of the Crown in the King's Bench to read : Then rising, they made Three Reverences, and returned to the Table. And then Proclamation was made for Silence, in this Manner :

Serjeant at Arms. Oyez, Oyez, Oyez ! Our Sovereign Lord the King strictly charges and commands all manner of Persons to keep Silence, upon Pain of Imprisonment.

Then the Lord High Steward stood up, and spoke to the Peers.

Lord High Steward. His Majesty's Commission is about to be read : Your Lordships are desired to attend to it in the usual Manner ; and all others are likewise to stand up, uncovered, while the Commission is reading.

All the Peers uncovered themselves ; and they, and all others, stood up uncovered, while the Commission was read.

GEORGE R.

GEORGE the Second, by the Grace of God, of *Great Britain, France, and Ireland*, King, Defender of the Faith, and so forth. To our Right Trusty and Wellbeloved Councillor *Robert Lord Henley*, Baron of *Grainge*, in Our County of *Southampton*, Keeper of our Great Seal of *Great Britain*, Greeting, Know ye, That whereas *Lawrence Earl Ferrers*, Viscount *Tamworth*, late of the Parish of *Breedon*, in Our County of *Leicester* (before Our Justices, assigned by Our Letters Patent under Our Great Seal of *Great Britain*, to enquire more fully the Truth, by the Oath of good and lawful Men of Our said County of *Leicester*, and by other Ways, Means, and Methods, by which they should and might better know (as well within Liberties as without), by whom the Truth of the Matter may be the better known and enquired into, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and of other Kingdoms or Dominions whatsoever, and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings and Conventicles, unlawful Uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligencies, Concealments, Maintenances, Oppressions, Champarties, Deceits, and all other evil Doings, Offences, and Injuries whatsoever, and also of the Accessaries of them, within the County of *Leicester* aforesaid (as well within Liberties as without), by whomsoever and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner, and of all other Articles and Circumstances concerning the Premises, and every or any of them, in any manner whatsoever ; and the said Treasons, and other the Premises, according to the Laws and Customs of *England*, to hear and determine), stands indicted, by the Oath of good and lawful Men of Our said County of *Leicester*, of Felony and Murder, by him the said *Lawrence Earl Ferrers* Viscount *Tamworth* done and committed ; We, considering that Justice is an excellent Virtue, and pleasing to the Most High ; and being willing that the said *Lawrence Earl Ferrers* Viscount *Tamworth*, of and for the Felony and Murder whereof he is indicted as aforesaid before Us, in Our present Parliament, according to the Law and Custom of Our Kingdom of *Great Britain*, may be heard, examined, sentenced, and adjudged ; and that all other Things which are necessary on this Occasion may be duly exercised and executed ; and for that the Office of High Steward of *Great Britain* (whose Presence, upon this Occasion, is required), is now vacant (as We are informed) ; We, very much confiding in your Fidelity, Prudence, provident Circumspection, and Industry, have, for this Cause, ordained and constituted you Steward of *Great Britain*, to bear, execute, and exercise (for this Time), the said Office, with all Things due and belonging to the same Office in this Behalf : And therefore We command you, that you diligently set about the Premises, and (for this Time) do exercise, and execute with Effect, all those Things which belong to the Office of Steward of *Great Britain*, and which are required in this Behalf. In Witness whereof, We have caused these our Letters to be made Patent. Witness Ourselves at *Westminster*, the Sixteenth Day of *April*, in the Thirty-third Year of Our Reign.

By the King Himself, signed with his own Hand.

Yorke and Yorke.

Serjeant at Arms. God save the King.

Then *Garter*, and the Gentleman Usher of the Black Rod, after Three Reverences, kneeling, jointly presented the White Staff to his Grace the Lord High Steward: And then his Grace, attended by *Garter*, Black Rod, and the Purse-Bearer (making his proper Reverences towards the Throne), removed from the Woolpack to an armed Chair, which was placed on the uppermost Step but one of the Throne, as it was prepared for that Purpose; and then seated himself in the Chair, and delivered the Staff to the Gentleman Usher of the Black Rod on his Right Hand, the Purse-Bearer holding the Purse on the Left.

Clerk of the Crown. Serjeant at Arms, make Proclamation.

Serjeant at Arms. Oyez, Oyez, Oyez! Our Sovereign Lord the King strictly charges and commands all manner of Persons to keep Silence, upon Pain of Imprisonment.

Then the Clerk of the Crown, by Direction of the Lord High Steward, read the *Certiorari*, and the Return thereof, together with the Caption of the Indictment, and the Indictment certified thereupon, against *Lawrence Earl Ferrers*; *in hæc verba*:

The *Certiorari* } *and Return.* } **G**EORGE the Second, by the Grace of God, of *Great Britain, France, and Ireland*, King, Defender of the Faith, and so forth, To Our Justices, assigned by Our Letters Patent under Our Great Seal of *Great Britain* to enquire more fully the Truth, by the Oath of good and lawful Men of Our County of *Leicester*, and by other Ways, Means, and Methods, by which they should and might better know (as well within Liberties as without), by whom the Truth of the Matter may be the better known and enquired into, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities of the Money of *Great Britain*, and of other Kingdoms or Dominions whatsoever, and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings and Conventicles, unlawful Uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespasses, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligences, Concealments, Maintenances, Oppressions, Champarties, Deceits, and all other evil Doings, Offences, and Injuries whatsoever, and also of the Accessaries of them, within the County aforesaid (as well within Liberties as without), by whomsoever and in what manner soever done, committed, or perpetrated, and by whom, or to whom, when, how, and after what manner, and of all other Articles and Circumstances concerning the Premises, and every or any of them, in any manner whatsoever, and the said Treasons, and other the Premises, according to the Laws and Customs of *England*, to hear and determine, and to every of them, Greeting; We, being willing, for certain Reasons, that all and singular Indictments and Inquisitions of whatsoever Felonies and Murders whereof *Lawrence Earl Ferrers Viscount Tamworth*, late of the Parish of *Breedon*, in the County of *Leicester*, is indicted before you (as is said), be determined before Us, and not elsewhere, do command you, and every of you, that you, or One of you, do send, under your Seals, or the Seal of One of you, before Us, in our present Parliament, immediately after the Receipt of this Our Writ, all and singular the Indictments and Inquisitions aforesaid, with all Things touching the same, by whatsoever Name the said *Lawrence Earl Ferrers Viscount Tamworth* is called in the same, together with this Writ, that We may further cause to be done thereon what of Right, and according to the Law and Custom of *England*, We shall see fit to be done. Witness Ourself at *Westminster*, the Eighteenth Day of *March*, in the Thirty-third Year of Our Reign.

Torke and Torke.

To the Justices assigned to enquire of all Treasons, Murders, &c. committed within the County of *Leicester*, a Writ of *Certiorari*, to certify into the Upper House of Parliament the Indictment found before them against *Lawrence Earl Ferrers* for Murder, returnable immediately, before the King in Parliament.

Torke and Torke.

Return. } **B**Y Order of the Lords Spiritual and Temporal in Parliament assembled, by virtue of the within Writ to me, and others, directed, I send to our Sovereign Lord the King, in this present Parliament, under my Seal, the Indictment and Inquisition within mentioned, with all Things touching the same, in certain Schedules hereunto annexed, as I am within commanded.

H. Bathurst.

Leicestershire. } **B**E it remembered, That at the General Session of our Lord the King, of Oyer and Terminer, holden for the County of *Leicester*, at the Castle of *Leicester*, in and for the same County, on *Friday* the Fourteenth Day of *March*, in the Thirty-third Year of the Reign of our Sovereign Lord *George* the Second, now King of *Great Britain*, and so forth,

forth, before *Henry Bathurst*, Esquire, one of the Justices of our said Lord the King, of his Court of Common Bench; *James Hewitt*, Esquire, one of the Serjeants at Law of our said Lord the King, and others their Fellows, Justices of our said Lord the King, assigned by Letters Patent of our said Lord the King, under his Great Seal of *Great Britain*, to them and others, and any Two or more of them made, of whom our said Lord the King would have the said *Henry Bathurst*, Esquire, and *James Hewitt*, Esquire, to be One, to enquire more fully the Truth, by the Oath of good and lawful Men of the County aforesaid, and by all other Ways, Means, and Methods, by which they should or might better know (as well within Liberties as without) by whom the Truth of the Matter may be the better known and enquired into, of all Treasons, Misprisions of Treasons, Insurrections, Rebellions, Counterfeittings, Clippings, Washings, false Coinings, and other Falsities, of the Moneys of *Great Britain*, and of other Kingdoms or Dominions whatsoever; and of all Murders, Felonies, Manslaughters, Killings, Burglaries, Rapes of Women, unlawful Meetings and Conventicles, unlawful Uttering of Words, Assemblies, Misprisions, Confederacies, false Allegations, Trespases, Riots, Routs, Retentions, Escapes, Contempts, Falsities, Negligences, Concealments, Maintenances, Oppressions, Champarties, Deceits, and all other evil Doings, Offences, and Injuries whatsoever, and also of the Accessaries of them, within the County aforesaid (as well within Liberties as without) by whomsoever, and in what manner soever, done, committed, or perpetrated, and by whom or to whom, when, how, and after what manner, and of all other Articles and Circumstances concerning the Premises, and every or any of them, in any manner whatsoever; and the said Treasons, and other the Premises, according to the Laws and Customs of *England*, for this Time, to hear and determine, by the Oath of *John Grey*, *John Palmer*, *Thomas Boothby* the Elder, *William Pochin*, *Nathan Wrighte*, *Charles Skrymsher Boothby*, *Thomas Boothby* the Younger, *Joseph Craddock*, *Edward Farnham*, *Rogers Rudding*, *Charles Morris*, Esquires; *John Smalley*, *Richard Walker*, *John Willows*, *James Silmey*, *Thomas Ayre*, *Gabriel Newton*, and *Robert Hames*, Gentlemen; good and lawful Men of the County aforesaid, then and there sworn, and charged to enquire for our said Lord the King, for the Body of the same County.

It is presented, That the Bill of Indictment hereunto annexed is a true Bill.

BLENCOWE.

Leicestershire. } THE Jurors for our present Sovereign Lord the King, upon their Oath, present, That the Right Honourable *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, late of the Parish of *Breedon*, in the County of *Leicester*, not having the Fear of God before his Eyes, but being moved and seduced by the Instigation of the Devil, on the Eighteenth Day of *January*, in the Thirty-third Year of the Reign of our present Sovereign Lord *George* the Second, by the Grace of God, of *Great Britain*, *France*, and *Ireland*, King, Defender of the Faith, and so forth, with Force and Arms, at the Parish of *Breedon*, in the County of *Leicester* aforesaid, in and upon one *John Johnson*, in the Peace of God, and of our said Lord the King, then and there being, feloniously, wilfully, and of his Malice aforethought, did make an Assault, and that He the said *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, with a certain Pistol of the Value of Two Shillings, then and there being charged with Gunpowder, and a leaden Bullet, which Pistol he the said *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, in his Hand then and there had and held, at, against, and upon, him the said *John Johnson*, then and there feloniously, wilfully, and of his Malice aforethought, did discharge and shoot off: And that he the said *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, with the leaden Bullet aforesaid, by Force of the Gunpowder aforesaid out of the said Pistol, by him the said *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, so as aforesaid discharged and shot off, him the said *John Johnson*, in and upon the Left Side of the said *John Johnson*, a little under the lowest Rib of the said *John Johnson*, then and there feloniously, wilfully, and of his Malice aforethought, did strike and wound, giving to the said *John Johnson* then and there, with the leaden Bullet aforesaid, out of the said Pistol so as aforesaid discharged and shot off, in and upon the said Left Side, a little under the lowest Rib of the said *John Johnson*, One mortal Wound, of the Breadth of One Inch and Depth of Four Inches; of which said mortal Wound the said *John Johnson*, at the said Parish of *Breedon*, in the said County of *Leicester*, did languish, and languishing did live, until the Nineteenth Day of the same Month of *January*, in the Thirty-third Year aforesaid; on which said Nineteenth Day of *January*, about the Hour of Nine of the Clock in the Morning, he the said *John Johnson*, at the Parish of *Breedon* aforesaid, in the County of *Leicester* aforesaid, of the mortal Wound aforesaid died: And so the Jurors aforesaid, upon their Oaths aforesaid, do say, That the said *Lawrence* Earl *Ferrers*, Viscount *Tamworth*, the said *John Johnson*, in manner

and Form aforeſaid, feloniously, wilfully, and of his Malice aforethought, did kill and murder, againſt the Peace of our ſaid Lord the King, his Crown and Dignity.

A true Bill.

Witneſſes, *Elizabeth Burgeland,* *Sarah Joſon,*
Elizabeth Saxon, *Thomas Kirkland,*
Elizabeth Doleman, *William Tomlinſon:*
 Sworn in Court.

Lord High Steward. Is it your Lordſhips Pleaſure, that the Judges have Leave to be covered?

Lords. Ay, ay.

Clerk of the Crown. Serjeant at Arms, Make Proclamation for the Lieutenant of the *Tower* to bring his Priſoner to the Bar.

Serjeant at Arms. Oyez, Oyez, Oyez! Lieutenant of the *Tower* of *London*, Bring forth *Lawrence Earl Ferrers*, your Priſoner, to the Bar, purſuant to the Order of the Houſe of Lords.

Then *Lawrence Earl Ferrers* was brought to the Bar by the Deputy Governor of the *Tower*, having the Ax carried before him by the Gentleman-Gaoler, who ſtood with it on the Left Hand of the Priſoner, with the Edge turned from him. The Priſoner, when he approached the Bar, made Three Reverences, and then fell upon his Knees at the Bar.

Lord High Steward. Your Lordſhip may riſe.

Then the Priſoner roſe up, and bowed to his Grace the Lord High Steward, and to the Houſe of Peers; which Compliment was returned him by his Grace, and the Lords.

Then, Proclamation having been again made for Silence, the Lord High Steward ſpake to the Priſoner, as follows.

Lord High Steward.

Lawrence Earl Ferrers,

YOU are brought to this Bar to receive your Trial, upon a Charge of the Murder of *John Joſon*; an Accuſation, with reſpect to the Crime, and the Perſons who make it (the Grand Jury of the County of *Leiceſter*, the Place of your Lordſhip's Reſidence), of the moſt ſolemn and ſerious Nature.

Yet, my Lord, you may conſider it, but as an Accuſation: for the greateſt or meaneſt Subject of this Kingdom (ſuch is the Tendernels of our Law) cannot be convicted capitally, but by a Charge made by Twelve good and lawful Men, and a Verdict found by the ſame Number of his Equals at the leaſt.

My Lord, in this Period of the Proceedings, while your Lordſhip ſtands only as accuſed, I touch but gently on the Offence charged upon your Lordſhip; yet, for your own Sake, it behoves me, ſtrongly to mark the Nature of the Judicature before which you now appear.

It is a Happineſs reſulting from your Lordſhip's Birth and the Conſtitution of this Country, That your Lordſhip is now to be tried by your Peers in full Parliament. What greater Conſolation can be ſuggeſted to a Perſon in your unhappy Circumſtances, than to be reminded, that you are to be tried by a Set of Judges, whoſe Sagacity and Penetration no material Circumſtances in Evidence can eſcape, and whoſe Juſtice nothing can influence or pervert?

This Conſideration, if your Lordſhip is conſcious of Innocence, muſt free your Mind from any Perturbations that the Solemnity of ſuch a Trial might excite; It will render the Charge, heavy as it is, unembarralling, and leave your Lordſhip firm and compoſed, to avail yourſelf of every Mode of Defence, that the moſt equal and humane Laws admit of.

Your Lordſhip, purſuant to the Courſe of this Judicature, hath been furniſhed with a Copy of the Indictment, and hath had your own Counſel aſſigned; you are therefore enabled to make ſuch Defence as is moſt for your Benefit and Advantage; if your Lordſhip ſhall put yourſelf on Trial, you muſt be aſſured to meet with nothing but Juſtice, Candour, and Impartiality.

Before I conclude, I am, by Command of the Houſe, to acquaint your Lordſhip, and all other Perſons who have Occaſion to ſpeak to the Court, during the Trial, that they are to addreſs themſelves to the Lords in general, and not to any Lord in particular.

Lord High Steward. *Lawrence Earl Ferrers*, Your Lordſhip will do well to give Attention, while you are arraigned on your Indictment.

Here *Earl Ferrers* was arraigned, in the Form of the ſaid Indictment againſt him, by the Clerk of the Crown in the King's Bench.

Clerk of the Crown. How ſay you, *Lawrence Earl Ferrers*, Are you guilty of the Felony and Murder whereof you ſtand indicted, or not guilty?

Earl Ferrers. Not guilty, my Lords.

Clerk of the Crown. Cul' : prît,
How will your Lordship be tried ?

Earl Ferrers. By God and my Peers.

Clerk of the Crown. God send your Lordship a good Deliverance.

Clerk of the Crown. Serjeant at Arms, make Proclamation.

Serjeant at Arms. Oyez, Oyez, Oyez ! All manner of Persons that will give Evidence, on behalf of our Sovereign Lord the King, against *Lawrence Earl Ferrers*, the Prisoner at the Bar, let them come forth, and they shall be heard ; for now he stands at the Bar upon his Deliverance.

Lord High Steward. My Lords, the Distance of this Place from the Bar is so great, that I must desire your Lordships Leave to go down to the Table for the Convenience of hearing.

Lords. Ay, Ay.

Then his Grace removed to the Woolpack, and delivered the White Staff to be held by the Gentleman Usher of the Black Rod ; who, during the whole Trial, always received and delivered back the White Staff upon his Knee.

Mr. Perrott.

May it please your Lordships,

THIS Noble Lord *Lawrence Earl Ferrers*, the Prisoner at the Bar, stands indicted for the felonious Killing and Murder of one *John Johnson*, and the Indictment sets forth, That the Right Honourable *Lawrence Earl Ferrers*, Viscount *Tamworth*, on the Eighteenth Day of *January*, in the Thirty-third Year of his present Majesty's Reign, with Force and Arms, at the Parish of *Breedon*, in the County of *Leicester*, in and upon one *John Johnson*, feloniously, wilfully, and of his Malice aforethought, did make an Assault ; and that a certain Pistol then and there, being charged with Gunpowder and a leaden Bullet, which Pistol he the said *Lawrence Earl Ferrers* then and there held in his Hand, at, against, and upon him the said *John Johnson*, then and there feloniously, wilfully, and of his Malice aforethought, did discharge and shoot off ; and with the leaden Bullet aforesaid, by Force of the Gunpowder aforesaid, out of the said Pistol by him so discharged and shot off, the said *John Johnson* in and upon the Left Side of the said *John Johnson*, a little under his lowest Rib, then and there feloniously, wilfully, and of his Malice aforethought, did strike and wound, giving to the said *John Johnson* then and there, with the leaden Bullet aforesaid, out of the said Pistol so as aforesaid discharged and shot off, in and upon the said Left Side, a little under the lowest Rib of the said *John Johnson*, One mortal Wound, of the Breadth of One Inch and Depth of Four Inches ; of which said mortal Wound the said *John Johnson* did languish, and languishing did live, until the Nineteenth Day of the same Month of *January*, in the Thirty-third Year aforesaid ; on which Day, about the Hour of Nine of the Clock in the Morning, he the said *John Johnson*, of the mortal Wound aforesaid, died ; and so the Jurors, upon their Oath, do find, That the said *Lawrence Earl Ferrers*, the said *John Johnson*, in manner aforesaid, feloniously, wilfully, and of his Malice aforethought, did kill and murder, against the Peace of our Lord the King, his Crown and Dignity.

To this Indictment the Noble Lord, the Prisoner at the Bar, hath pleaded Not guilty, and for his Trial hath put himself upon your Lordships his Peers here present.

We, who have the Honour to serve the Crown in this Prosecution, shall call our Evidence ; and, if we prove the Fact charged by this Indictment, we doubt not but your Lordships will find him guilty, and give such Judgment for the same as shall be just.

Mr. Attorney-General.

May it please your Lordships,

IAM likewise of Council for the Crown ; and it is become my Duty in consequence of that, to open to your Lordships the Facts and Circumstances of this Case, out of which your Lordships are to collect and find the Crime that is charged in this Indictment.

The noble Prisoner stands here arraigned before your Lordships for that odious Offence, malicious and deliberate Murder. There cannot be a Crime in human Society that deserves more to be punished, or more strictly to be inquired after ; and therefore it is that his Majesty, the great executive Hand of Justice in this Kingdom, has promoted this Inquiry, whereby all Men may see, that in the Case of Murder his Majesty makes no Difference between the greatest and meanest of his Subjects.

The Prisoner has a Right from his Quality, to the Privilege of being tried before this noble Tribunal ; if he is innocent, he has the greatest Reason to be comforted, that your Lordships are his Judges ; for that Nobleness and Humanity, which prompt you naturally to incline towards Mercy, will strongly exert themselves in the Protection of Innocence. But, on the other Hand, if the Prisoner is really guilty of the Charge, his Case is truly deplorable ; because your Minds cannot be deceived, by the false Colouring of Rhetorick, nor your Zeal for Justice perverted, by any unmanly Compassion.

This impartial Disposition in your Lordships calls upon the Prosecutors to observe a Conduct worthy of this noble Assembly ; not to enlarge or aggravate any Part, or advance a Step beyond their Instructions ; but barely to state the naked Facts, in order that, by that means, your Lordships may be enabled the better to attend to the Witnesses when they are called, to examine and cross examine, and sift out the Truth with more Accuracy.

My Lords, as I never thought it my Duty in any Case to attempt at Eloquence, where a Prisoner stood upon Trial for his Life, much less shall I think myself justified in doing it before your Lordships ; give me Leave therefore to proceed to a Narration of the Facts.

My Lords, the deceased Person Mr. *Johnson*, I find to have been employed by the *Ferrers* Family almost during the whole Course of his Life : He was taken into their Service in his Youth, and continued in it unfortunately to the Time of his Death.

At the time a Bill was passed by your Lordships about Two Years ago, to separate Lord *Ferrers* from his Lady, Mr. *Johnson* was appointed Receiver of his Lordship's Estates. At that time his Lordship seems to have entertained a good Opinion of him, because I am told he was appointed Receiver at his Lordship's own Nomination ; but, very soon after he became invested with this Trust, when the Noble Lord found there was no possible Method, by any Temptation whatever, to prevail on Mr. *Johnson* to break that Trust, his Lordship's Mind grew to be alienated towards him, and his former Friendship was converted into Hatred.

The First Instance of his Lordship's Malice, that will be produced, will be his giving him Notice to quit a beneficial Farm that Mr. *Johnson* had obtained a Promise of from the Earl, or his Relations, before he was appointed Receiver ; but when it appeared that the Trustees had made good the Promise, and had granted him a Lease, my Lord was obliged to desist from that Attempt.

When he found it was impossible to remove him from the Farm, his Resentment against Mr. *Johnson* increased, and he took at last a determined Resolution within himself to commit the horrid Fact for which he now stands arraigned.

My Lords, I find several Causes assigned by the Prisoner for this Indignation expressed against the deceased ; he charged him with having colluded secretly with his Adversaries, with being in the Interest of those he was pleased to call his Enemies, and instrumental in procuring the Act of Parliament : Whether these Charges were justly founded or not, is totally immaterial ; such as they were, he had conceived them. His Lordship, who best knew the Malice of his own Heart, has confessed that he harboured these Suspicions.

Another thing he suspected was, that, in Confederacy with Mr. *Burslem* and Mr. *Curson*, he agreed to disappoint his Lordship, in regard to a certain Contract for Coal Mines. These Notions, tho' void of Truth, had so poisoned his Lordship's Mind, that he was determined at last to gratify his Revenge by Murder.

This Determination being once settled and fixed in his Mind, your Lordships will see, with what Art and Deliberation it was pursued ; notwithstanding these seeming Causes of Disgust, he dissembled all Appearance of Ill-will or Resentment, his Countenance towards the Deceased for some Months seemed greatly to be changed, and his Behaviour was affable and good-humoured.

The poor Man, deluded with these Appearances, was brought to believe he was in no Danger, and that he might safely trust himself alone with his Lordship.

Matters being thus prepared, on *Sunday* the 13th of *January*, the Prisoner made an Appointment for Mr. *Johnson* to come to him on the *Friday* following.

His Lordship, though the Appointment was Five or Six Days before, remembered it perfectly ; nay, he remembered the very Hour he was to come, and took his Measures accordingly ; for your Lordships will find, that, in order to clear the House, Mrs. *Clifford*, a Woman who lives with his Lordship, and Four Children, were directed by him, at Three o'Clock precisely, to absent themselves ; they were ordered to walk out to Mrs. *Clifford*'s Father, about Two Miles from my Lord's House, and not to return till Five, or Half an Hour after Five.

The Two Men Servants likewise, the only Servants of that Sex then residing with him, were contrived to be sent out of the Way ; so that when Mr. *Johnson* repaired to *Stanton*, my Lord's House, at Three o'clock, there was no Person in the House, except his Lordship, and Three Maid Servants.

Mr. *Johnson*, when he came to the House, rapt at the Door, and was received by his Lordship, and directed to wait some Time in the Still Room ; then his Lordship ordered him into the Parlour, where they both entered together, and the Door was immediately locked on the Inside.

What passed in that Interval, between the Time of Mr. *Johnson*'s first going in, and the Time of his being shot, can only be now known to your Lordships by the Noble Earl's Confession, which has been very ample indeed upon the present Occasion.

After Mr. *Johnson* had been there the best Part of an Hour, one of the Maids in the Kitchen, hearing some high Words in the Parlour, went to the Door to see if she could discover what was doing ; she listened, and heard my Lord, as she was at the Kitchen Door, say, Down upon your Knees ; Your Time is come ; You must die ; and presently after heard a Pistol go off : Upon

that,

that, she removed from the Kitchen, and retired to another Part of the House ; for she did not care to venture into his Lordship's Presence.

Though it appeared, afterwards, that Mr. *Johnson* had then received that Wound of which he died, he did not then immediately drop ; he arose, and was able to walk.

Just then, my Lord *Ferrers*, as he confessed afterwards, felt a few momentary Touches of Compassion : He permitted Mr. *Johnson* to be led up Stairs to Bed, till better Assistance could be called ; he suffered a Surgeon to be sent for, nay, the very Surgeon that Mr. *Johnson* himself had desired ; and Mr. *Johnson*'s Children, by his Lordship's Order, were acquainted with the Accident, and sent for to see him.

Mr. *Johnson*'s Daughter was the first Person that came ; she met the noble Lord, and the first Greeting she had from him was, that he had shot her Father ; and that he had done it on Purpose, and deliberately. Mrs. *Clifford*, who had been apprized of this Accident by the Servants, came not long after ; and, in an Hour and an Half, or Two Hours, Mr. *Kirkland*, the Surgeon, who was from Home when the Servant was dispatched, and at a neighbouring Village, hastened with the best Expedition he could make, to *Stanton*. When he came to *Stanton* he met my Lord in the Passage.

Here your Lordships will observe, that the Noble Lord's Conduct and Behaviour, from this Time to the Time that Mr. *Johnson* was removed to his own House, seemed all along calculated for his Escape ; and that the only Anxiety he expressed was the Dread of being seized, and brought to Punishment in case Mr. *Johnson* should die.

Upon Mr. *Kirkland*'s first Appearance, my Lord had told him, that he had shot Mr. *Johnson*, and that he had done it coolly ; he desired he might not be seized till it was known with Certainty, whether Mr. *Johnson* would die or not ; and threatened, that if any Person attempted to seize him, he would shoot them. Mr. *Kirkland* told him, he would take Care that nobody should meddle with him.

Mr. *Kirkland* was then brought up to Mr. *Johnson*, who was upon the Bed ; the Surgeon examined the Wound, and found that the Ball had penetrated a little below the Ribs on the Left Side ; he took an Instrument in his Hand, called a Director, in order to probe the Wound : Here my Lord interrupted him, and said, You need not be at that Trouble ; pass your Instrument downwards ; I, when I shot off the Pistol, directed it that Way ; and Mr. *Kirkland* found this, upon Examination, to be true ; the Ball had not passed through the Body, but remained lodged in the Cavities of the Abdomen.

When my Lord found that the Ball was in the Body, he grew uneasy ; for he was apprehensive that the Ball, if it remained there, might prove fatal : He asked Mr. *Kirkland* if it could be extracted ; Mr. *Kirkland* told him, from what he observed, it would be impracticable to extract the Ball : but, to give him better Hopes, he told him, that many Persons had lived a long while after they had been shot, though the Ball had remained within them.

Presently after this, the Surgeon went down Stairs to prepare a Fomentation, and soon after returned : When he came back into the Room, Mr. *Johnson* complained of the Strangury, and found a considerable Difficulty in making Water ; this alarmed his Lordship again : He then asked Mr. *Kirkland*, What would be the Consequence, if the Bladder or Kidneys were hurt ? Mr. *Kirkland* having laid down his Rule of Conduct, wherein his Prudence deserves to be commended, answered, that, though the Bladder should be wounded, or the Kidneys hurt, there had been many Cures performed upon such like Wounds.

This made his Lordship tolerably easy : He then began to be in better Spirits, which, I am sorry to say, at that Time were somewhat heightened with Liquor ; for, although he was cool and fresh when he did the Fact, yet the Moment it was done he began to drink, and continued drinking, at Times, till Twelve o'Clock at Night : This Liquor, however, only contributed to raise his Spirits, without disordering his Understanding ; for he appeared to be compleat Master of himself the whole Day.

After Mr. *Kirkland* had given him so much Encouragement, they together went down to the Still Room ; and now, his Lordship verily believing that Mr. *Johnson* would recover, he grew less cautious in avowing the Deliberation with which he did the Fact, and declaring all the Circumstances that attended it.

And here, because I will not wrong the Noble Lord, by adding a single Letter to my Brief, your Lordships shall hear his Confession, from thence, in his own Words.

' *Kirkland*, says he, I believe *Johnson* is more frightened than hurt ; my Intention was to have shot him dead ; but, finding that he did not fall at the first Shot, I intended to have shot him again, but the Pain he complained of made me forbear ; there Nature did take place, in Opposition to the Resolution I had formed. I desire you will take Care of him ; for it would be cruel not to give him Ease, now I have spared his Life.

' When you speak of this afterwards, do not say (though I desire he may be eased of his Pain) that I repented of what I have done ; I am not sorry for it ; it was not done without Consideration ; I own it was premeditated ; I had, some Time before, charged a Pistol for the Purpose,

' being

‘ being determined to kill him, for he is a Villain, and deserves Death ; but, as he is not dead, I desire you will not suffer my being seized ; for, if he dies, I will go and surrender myself to the House of Lords ; I have enough to justify the Action ; They may not excuse me, but it will satisfy my own Conscience ; but be sure you don’t go in the Morning without letting me see you, that I may know if he is likely to recover or not ; I will get up at any Time ; at Four o’Clock in the Morning.

‘ To this very strange and horrid Declaration Mr. *Kirkland* answered, by promising his Lordship, that he would certainly give him the first Intelligence touching Mr. *Johnson*’s Condition ; and, as it was proper, for very prudent Reasons, as well with respect to himself as Mr. *Johnson*, to dissemble with his Lordship, he proceeded further, and told him, that he would give a favourable Account of this Matter. The Noble Lord then asked him, what he would say if he was called upon ; he told him he would say, that though *Johnson* was shot, that he was in a fair Way of Recovery. His Lordship asked Mr. *Kirkland*, if he would make Oath of that ? He said, yes.

‘ Mr. *Kirkland* then went to see Mr. *Johnson* again, and found him better ; they then went to Supper, and, during the Time they were at Supper, his Lordship mentioned several other Particulars : He said he was astonished that the Bullet should remain in his Body ; for, says he, I have made a Tryal with this Pistol, and it pierced through a Board an Inch and an Half thick ; I am astonished it did not pass through his Body ; I took good Aim, and I held the Pistol in this Manner ; and then he shewed Mr. *Kirkland* the Manner of his holding his Pistol.’

He also declared the Grounds and Motives for his killing *Johnson* ; that he had been a Villain ; that he was in the Interest of his Enemies ; that he had joined with those who had injured him, and taken away his Estate, by an Act of Parliament ; that he had colluded with Mr. *Curzon* and Mr. *Burslem*, with respect to the Coal Contract.

Another Thing he mentioned with respect to the Farm ; says he, I have long wanted to drive *Johnson* out of the Farm ; if he recovers, he will go back to *Cheshire*, where he came from. Mr. *Kirkland* said, no doubt but this Accident would drive him Home again.

After they had supped, Mrs. *Clifford* came into the Room, and she proposed, that Mr. *Johnson* should be removed to the *Lount*, which is the Name of Mr. *Johnson*’s House, and lies about a Mile from *Stanton* ; his Lordship refused to consent to that, not because he thought Mr. *Johnson* might be hurt by the Removal, but, to use his own Words, because he would have him under his own Roof, to plague the Villain.

When Supper was over, they returned back to Mr. *Johnson*, who was then under the greatest Uneasiness ; he was restless, and the Complaint of the Strangury increased : Then my Lord was alarmed again ; he enquired of the Surgeon what would be the Consequence, in case the Guts were shot through ? Mr. *Kirkland* gave him a favourable Answer that revived his Spirits ; he went out of the Room, and invited Mr. *Kirkland* to take a Bottle of Port ; they then drank together, and during that Time, the same, or the like Expressions were repeated ; I will not trouble your Lordships with them again ; but he all along declared, he did not do it hastily, but coolly and deliberately ; that his Intention was to have killed him : And that the Reason why he did it at that Time was, because he would not sign a Paper of Recantation, acknowledging all the Injuries he had done his Lordship.

They then again returned to Mr. *Johnson*, after they had drank out the Bottle : Whether the Liquor was prevalent or not, I don’t know ; your Lordships will observe what followed : His Behaviour to the poor Man, though he lay there under the Surgeon’s Hands, was totally changed, and his Resentment grew outrageous ; my Lord again attacked him upon the same Charge as before, compelled him to acknowledge before all the Company (of which his Daughter was one) that he was a Villain ; nay, he was about to drag him out of Bed upon the Floor, which would hardly have been prevented, if Mr. *Johnson*, who was tutored by a Wink from Mr. *Kirkland*, had not said, I do confess I am a Villain : My Lord at last went to Bed ; but, before he departed, he said, with great Earnestness to Mr. *Kirkland*, May I rely upon you ? are you sure there is no Danger ? may I go to Bed in Safety ? Mr. *Kirkland* said, Yes, your Lordship may. When his Lordship was gone, poor *Johnson* begged to be removed to his own House. Mr. *Kirkland* wished it as much ; for, besides that he could not have that free Access to his Patient that was necessary, if he was to remain there, he thought himself in the utmost Peril. My Lord had confessed too much, and *Kirkland* too little ; so that if Mr. *Johnson* had died there, no Man in Mr. *Kirkland*’s Situation would have wished to have been alone with his Lordship, considering the dangerous Conversation that had passed between them.

Mr. *Kirkland*, therefore, immediately went to the *Lount*, procured Six or Seven armed Men, and came back by Two o’Clock in the Morning. They removed Mr. *Johnson*, put him into a great Chair, and wrapped him up in Blankets, and so conveyed him home. Towards Morning the poor Man’s Symptoms grew worse, and Mr. *Kirkland* then went away.

Mr. *Johnson* lay languishing till Seven or Eight in the Morning, and then died.

In the mean time Mr. *Kirkland* had procured a Number of armed Men to go down to *Stanton*, and to seize his Lordship. When they came there, my Lord was just out of Bed ; he had his

Garters in his Hand, and was seen passing towards the Stable. The Horses were all saddled, and every thing got in Readiness for his Escape.

Mr. *Springthorpe* advanced towards him; and when his Lordship found he was really to be attacked, he fled back to his House, and there stood a Siege of Four or Five Hours. While he was thus beset, he appeared at the Garret Windows, and, thinking himself secure in that Place, he began to parley, and asked, what they wanted with him? They told him, Mr. *Johnson* was dead, and that they were come to secure him. He said, he knew that was false; for Mr. *Johnson* was not dead: That he wished it might be true: That he would not believe it, unless Mr. *Kirkland* would declare it: That he would pay no Regard to any body else. He did not think fit to surrender; but continued in the House, till he thought he had an Opportunity of escaping through the Garden. He was there discovered by one *Cutler*, a Collier, who was a bold Man, and determined to take him: He marched up to him; and though his Lordship was armed with a Blunderbuss, Two or Three Pistols, and a Dagger, he submitted to the Collier's taking him, without making the least Resistance: And the Moment he was in Custody, he declared he gloried in the Fact; and again declared, that he intended to kill *Johnson*. He was then carried to Mr. *Kinsley's* House, and remained there till after the Coroner sat upon the Body.

I must mention to your Lordships, that upon Mr. *Hall*, a Clergyman's being introduced to him, he told him, he knew his Duty as well as he or any other Clergyman: That the Fact he had committed was coolly and deliberately done. So that your Lordships see his Declarations were consistent and uniform, from the Beginning to the End.

I shall neither aggravate nor observe.

These are the Circumstances which attended this horrid Murder. I have opened them faithfully from my Instructions. The Case is rather stronger than I have made it.

The Witnesses are to acquaint your Lordships, whether I have opened the Case truly. If the Evidence comes out as I have represented it to your Lordships, then your Lordships Sentence must be agreeable to Law. The noble Earl at the Bar must be found guilty.

If he has any Defence, God forbid that he should not have a fair Opportunity of making it. Let him be heard with Patience. The Prosecutors will be as glad as your Lordships to find him innocent.

The Evidence is to determine; and upon that Evidence we shall leave it.

Mr. *Solicitor General*,

The Hon. *Charles Yorke*, Esq;

} MY Lords, we will now proceed to call our Witnesses.
Call *Elizabeth Burgeland*.

Who came to the Bar, and one of the Clerks held the Book to her, upon which she laid her Hand.

Clerk of the Crown. Harken to your Oath.

The Evidence that you shall give on Behalf of our Sovereign Lord the King's Majesty, against *Lawrence Earl Ferrers* the Prisoner at the Bar, shall be the Truth, the whole Truth, and nothing but the Truth.

So help you G O D.

Then she kissed the Book.

Mr. *Solicitor General*. My Lords, This Witness was in the House at the Time when the Fact is charged to have been committed.

Lord High Steward. If your Lordships please, the Clerk may go down to the Bar and repeat to your Lordships what is said by Lord *Ferrers* or the Witnesses.

Lords. Ay, Ay.

Earl *Ferrers*. My Lords, There was something said by the Gentleman, Council for the Crown, that is a little false, relating to a Lease said to be given by Sir *William Meredith* to Mr. *Johnson*; I did not know of that Lease previous to this Fact; there were other Matters mentioned that are not right; I will not take up your Lordships Time to answer them now, but leave that Matter till I come to my Defence.

Mr. *Solicitor General*. My Lords, Whatever his Lordship thinks material in his Defence, he will have many Opportunities to offer.

Mr. *Solicitor General*. You was a Maid Servant in Lord *Ferrers's* House the 11th of *January* last?

Burgeland. Yes.

Mr. *Solicitor General*. Did you know one Mr. *Johnson*?

Burgeland. Yes.

Mr. *Solicitor General*. Do you know any Thing of Mr. *Johnson's* being employed by Lord *Ferrers*? did he use to attend him?

Burgeland. He sometimes attended my Lord *Ferrers*.

Mr.

Mr. Solicitor General. Did you know any Thing of his being expected to wait on Lord *Ferrers* at any Time in *January* last?

Burgeland. Yes.

Mr. Solicitor General. What do you know of it?

Burgeland. I know he came to the House.

Mr. Solicitor General. Do you know what Day in *January*?

Burgeland. I don't know what Day.

Mr. Solicitor General. About what Time of the Day was it?

Burgeland. About Three o'Clock in the Afternoon.

Mr. Solicitor General. On what Day of the Week was it?

Burgeland. On *Friday*.

Mr. Solicitor General. When *Mr. Johnson* came, who let him in?

Burgeland. I let him in.

Mr. Solicitor General. What did he say?

Burgeland. He asked whether his Lordship was within; I told him he was in his Room.

Mr. Solicitor General. What happened after that? Did my Lord expect him?

Burgeland. I believe he did.

Mr. Solicitor General. When he was let in, did you go with him?

Burgeland. No; he walked up to the Room Door, and knocked at it himself.

Mr. Solicitor General. At the Door of the Room where Lord *Ferrers* was sitting?

Burgeland. Yes.

Mr. Solicitor General. Did he go in then?

Burgeland. No; he did not go in then.

Mr. Solicitor General. Did Lord *Ferrers* speak to him?

Burgeland. Yes; and told him to walk into the other Room.

Mr. Solicitor General. Do you know any Thing of what passed between them?

Burgeland. I cannot say any Thing about it.

Mr. Solicitor General. You said Lord *Ferrers* expected *Mr. Johnson*, how do you know he expected him?

Burgeland. *Mrs. Clifford* told me in the Morning, that *Mr. Johnson* was to come to his Lordship that Day.

Mr. Solicitor General. Did you hear, or do you know, any Thing of what passed between Lord *Ferrers* and *Mr. Johnson*, when *Mr. Johnson* went into my Lord's Room?

Burgeland. No.

Mr. Solicitor General. Was the Door locked or open, after he went into the Room?

Burgeland. Locked.

Mr. Solicitor General. How came you to observe that?

Burgeland. I heard it locked.

Mr. Solicitor General. Where did you go after *Mr. Johnson* was in the Room with Lord *Ferrers*?

Burgeland. Into the Kitchen.

Mr. Solicitor General. Who was with you there?

Burgeland. The other Maid Servant.

Mr. Solicitor General. What was her Name?

Burgeland. *Elizabeth Saxon*—There was another Maid Servant in the Kitchen when he went in.

Mr. Solicitor General. Who was she?

Burgeland. *Elizabeth Doleman*.

Mr. Solicitor General. After that, did you hear any Thing?

Burgeland. I did not hear any Thing myself.

Mr. Solicitor General. Did you afterwards hear any Thing of what happened?—Do you know whether *Mr. Johnson* came out of the Room?

Burgeland. I cannot tell any Thing of it.

Mr. Solicitor General. Did you go into the Room?

Burgeland. I did not go into the Room; I was not out of the Kitchen.

Mr. Solicitor General. Did you hear any Noise?

Burgeland. No; I heard no Noise at all.

Mr. Solicitor General. Did you hear any Pistol go off, or any Noise?

Burgeland. I heard a Pistol go off.

Mr. Solicitor General. What did you do then?

Burgeland. When I heard the Pistol go, I run into the Yard, and the other Maid Servant with me.

Mr. Solicitor General. What happened afterwards?

Burgeland. We staid in the Yard a while, a few Minutes, and came back to the Wash-house.

Mr.

Mr. Solicitor General. Was the Room Door open after you heard that Noise ?
Burgeland. I did not stay till it was open.
Mr. Solicitor General. Did you stay till Lord *Ferrers* came ?
Burgeland. My Lord came when we were in the Wash-house, and called.
Mr. Solicitor General. What did he say ?
Burgeland. He hooped and hollood, Where are you all ?
Mr. Solicitor General. What did he say then ?
Burgeland. I went out, and said, We are here, my Lord ; he asked me, Where we had been.
 I said, in the Bleaching Yard.
Mr. Solicitor General. Did he give you any Order ?
Burgeland. He ordered that we should walk down to the House.
Mr. Solicitor General. Did he give any other Order ?
Burgeland. He sent up a Maid Servant into the Yard to fetch the Man in.
Mr. Solicitor General. Did he say any Thing of Mr. *Johnson* ?
Burgeland. Not till I got into the Room.
Mr. Solicitor General. What did he say then ?
Burgeland. He went up to Mr. *Johnson* and asked, how he did ?
Mr. Solicitor General. What did Mr. *Johnson* say ?
Burgeland. That he was a dying Man, and desired he would send for his Children.
Mr. Solicitor General. Did any Thing else pass ?
Burgeland. That is all I know.
Mr. Solicitor General. Who else was in the House besides the Servants you have named and yourself ?
Burgeland. There was nobody in the House but us Three when Mr. *Johnson* came ; and but Two in the Kitchen when it was done.
Mr. Solicitor General. What other Servants did my Lord use to keep ?
Burgeland. One Man Servant ; an old Man, I don't know whether he was a Servant.
Mr. Solicitor General. Did any other Person live with him ?
Burgeland. Mrs. *Clifford*, and the four young Ladies.
Mr. Solicitor General. Were they all out at the Time when this happened ?
Burgeland. Yes ; they were all out but the Two Maids.
Mr. Solicitor General. Were they out by Accident, or by Order ?
Burgeland. I do not know any Thing of any Order.
Mr. Solicitor General. Did you give Mr. *Johnson* any Assistance to carry him up to his Room ?
Burgeland. Yes ; I took him up to Bed by the Arm, by his Lordship's Order.
Earl Ferrers. Was not the Door locked before Mr. *Johnson* came ?
Burgeland. Yes.
Earl Ferrers. Has it been locked before ?
Burgeland. It has several times, when my Lord has been upon Business.
Earl Ferrers. Was not Mr. *Johnson* at my House on the Monday ?
Burgeland. Yes, he was there on the Monday.
Earl Ferrers. Did you hear any Dispute or Words between Mr. *Johnson* and me on the Monday ?
Burgeland. No, I did not hear any at all.
Earl Ferrers. Had not I packed up my Trunks, intending to go to London the Week following ?
Burgeland. Yes.
Earl Ferrers. On the Monday while he was there, and sent to the Carriages ?
Burgeland. Yes.

Mr. Gould. Our next Witness is *Elizabeth Saxon* (who was sworn in like manner).

Mr. Gould. Did you live with Lord *Ferrers* in January last ?
Saxon. Yes.
Mr. Gould. Did you know John *Johnson* ?
Saxon. Yes.
Mr. Gould. Do you remember Mr. *Johnson*'s coming to Lord *Ferrers* in January ?
Saxon. Yes.
Mr. Gould. Upon what Day ?
Saxon. The Eighteenth.
Mr. Gould. What Day of the Week was it ?
Saxon. On Friday.
Mr. Gould. Who was in the House when he came ?

Saxon.

- Saxon.* Nobody, only Three Maids and my Lord.
- Mr. Gould.* What Time of the Day did he come?
- Saxon.* About Three o'Clock.
- Mr. Gould.* What was become of the rest of my Lord's Family?
- Saxon.* I don't know: Mrs. *Clifford* and the Misses were gone out.
- Mr. Gould.* How long were they gone out before Mr. *Johnson* came.
- Saxon.* About Half an Hour.
- Mr. Gould.* Do you know the Reason of their going away?
- Saxon.* No; my Lord came into the Still-house, and said, they might go and fetch a Walk.
- Mr. Gould.* How long was it before they did go upon the Walk?
- Saxon.* They went directly.
- Mr. Gould.* What Time of Day did my Lord give this Leave?
- Saxon.* It was about Three o'Clock.
- Mr. Gould.* Was any thing mentioned where they were to go?
- Saxon.* Mrs. *Clifford* asked him, whether they might go to her Father's? And my Lord said, Yes.
- Mr. Gould.* Was any thing mentioned how long they might stay?
- Saxon.* He said, they might stay till Five, or Half an Hour after.
- Mr. Gould.* What Men Servants belonged to the House?
- Saxon.* There is but One Boy and an old Man.
- Mr. Gould.* Where were they?
- Saxon.* I cannot tell.
- Mr. Gould.* Were they in the House?
- Saxon.* No.
- Mr. Gould.* When Mr. *Johnson* came in, in what Room was my Lord *Ferrers*?
- Saxon.* In his own Room.
- Mr. Gould.* Where did Mr. *Johnson* go when he came into the House?
- Saxon.* He went up to my Lord's Room.
- Mr. Gould.* Did my Lord appear?
- Saxon.* My Lord came to the Door.
- Mr. Gould.* Did you hear any thing said by my Lord to Mr. *Johnson*?
- Saxon.* No.
- Mr. Gould.* Where did Mr. *Johnson* go when my Lord came out?
- Saxon.* My Lord came out, and ordered him to go into the Still-house.
- Mr. Gould.* What became of my Lord then?
- Saxon.* He went into his Room.
- Mr. Gould.* How long did he stay there before he came out again?
- Saxon.* I don't know: May be a few Minutes; not long; Ten Minutes, or such a Matter.
- Mr. Gould.* When he came out did he speak to Mr. *Johnson*?
- Saxon.* I don't know that he did: I did not hear him.
- Mr. Gould.* Did you see Mr. *Johnson* when my Lord came out a second Time?
- Saxon.* No.
- Mr. Gould.* What became of Mr. *Johnson*; did he go into any Room with my Lord *Ferrers*?
- Saxon.* I know he went into my Lord's Room.
- Mr. Gould.* Was the Door locked or not?
- Saxon.* He locked to the Door after Mr. *Johnson* was in.
- Mr. Gould.* Did you hear the Door locked?
- Saxon.* Yes, I heard it locked.
- Mr. Gould.* What did you hear pass in that Room?
- Saxon.* Nothing at all; I did not hear any Thing.
- Mr. Gould.* Did you hear any Expression, any Words used by my Lord to Mr. *Johnson*?
- Saxon.* No.
- Mr. Gould.* Did you hear any Noise?
- Saxon.* Yes; I heard them very loud; I heard my Lord say, Down on your other Knee, and declare what you have acted against Lord *Ferrers*, and then the Pistol went off; and I and the other Maid were frightned, and run away.
- Mr. Gould.* Did you hear my Lord, or Mr. *Johnson*, say any Thing more in the Room, than what you have mentioned?
- Saxon.* No.
- Earl Ferrers.* Was it not customary for Mrs. *Clifford* to speak to me before she went out?
- Saxon.* She said, my Lord, where must we go to?
- Earl Ferrers.* Was it customary to speak to me?

Saxon. Yes.

Earl Ferrers. How came you to be at my Door at that Time?

Saxon. I was not at my Lord's Door.

Lord Mansfield. Who was the other Maid that was with you when you over-heard what passed in my Lord's Room?

Saxon. The other Witness that was here?

Lord Mansfield. Had that other Servant the same Opportunity to hear as you had; was she as near the Door, listening in the same Way you was?

Saxon. No, she was not.

Earl Ferrers. Do you know what Time Mrs. *Clifford* was to return?

Saxon. About Five o'Clock, or Half an Hour after Five.

Earl Ferrers. Did not Mrs. *Clifford* very often go out about that Time after Dinner, about Three or Four o'Clock?

Saxon. Yes.

Earl of Morton. You said in the First Part of your Evidence, that you heard my Lord say to Mr. *Johnson*, Down on your other Knee. My Lord *Ferrers* asked you, how you came to be near the Door. You said, that you was not. Where did you hear it?

Saxon. I was at the Kitchen Door: I was no nearer than the Kitchen.

Earl of Morton. You say, that Lord *Ferrers* locked his Door?

Saxon. Yes.

Earl of Morton. Was it customary for him to lock it when People were with him, or when he was alone?

Saxon. I don't know.

Earl of Morton. Did you ever know Lord *Ferrers* lock his Door when Mr. *Johnson* was with him?

Saxon. No.

Earl Ferrers. Did you never know that I locked the Door when I had Company with me?

Saxon. No; I don't know that his Lordship did it ever since I came.

Earl of Hardwicke. You have said, that Lord *Ferrers* told Mr. *Johnson* to kneel on the other Knee; and that you heard it, though you was no nearer than the Kitchen Door: What Distance was there between the Kitchen Door and the Door of the Room where Lord *Ferrers* was?

Saxon. Not a great Way.

Earl of Hardwicke. What Distance was it?

Saxon. It might be Ten or a Dozen Yards, may be.

Earl Ferrers. Was there not a thick Wall between that Room and the Kitchen, and a Chimney.

Saxon. Yes.

Elizabeth Dolman sworn in like manner.

Mr. Norton. Was you Servant to Lord *Ferrers* in January last?

Dolman. Yes.

Mr. Norton. Did you know Mr. *Johnson* the Deceased?

Dolman. Yes.

Mr. Norton. Do you remember his coming there in January last?

Dolman. Yes.

Mr. Norton. What Day of the Month was it?

Dolman. The Eighteenth.

Mr. Norton. What Time of the Day?

Dolman. About Three o'Clock.

Mr. Norton. Who was in the House of Lord *Ferrers* at that Time?

Dolman. Three Maids.

Mr. Norton. Nobody else?

Dolman. No.

Mr. Norton. Was not his Lordship there?

Dolman. Yes.

Mr. Norton. Do you know where the rest of the Family was at that Time?

Dolman. I know nothing of that: I believe Mrs. *Clifford* and the Children were gone out.

Mr. Norton. Do you know whether Mr. *Johnson* was expected at Lord *Ferrers's* that Day?

Dolman. I don't know.

Mr. Norton. Was you in the House when Mr. *Johnson* came in?

Dolman. I was in the Kitchen.

Mr. Norton. Who let him in ?
Dolman. *Elizabeth Burgeland.*
Mr. Norton. Who did he ask for ?
Dolman. Lord *Ferrers.*
Mr. Norton. Did you or *Elizabeth Burgeland* shew him to Lord *Ferrers* ?
Dolman. *Elizabeth Burgeland.*
Mr. Norton. You was there ?
Dolman. I was in the Kitchen.
Mr. Norton. Did you hear any thing that passed between Lord *Ferrers* and Mr. *Johnson* ?
Dolman. No.
Mr. Norton. Did you hear a Pistol go off ?
Dolman. Yes.
Mr. Norton. At that Time where were Lord *Ferrers* and Mr. *Johnson* ?
Dolman. In my Lord's Room.
Mr. Norton. How long had Mr. *Johnson* been in my Lord's Room before you heard the Report of the Pistol ?
Dolman. May be about Half an Hour.
Mr. Norton. Was you there when Mr. *Johnson* went into the Room ?
Dolman. I was in the Kitchen.
Mr. Norton. Did you hear the Door locked ?
Dolman. Yes.
Mr. Norton. How did you hear it ? Was there a Spring, or was the Key turned ?
Dolman. It was turned with the Key.
Mr. Norton. Did you hear the Key turned, and the Door locked ?
Dolman. Yes.
Mr. Norton. How soon did you see Mr. *Johnson* after the Pistol went off ?
Dolman. I did not see Mr. *Johnson* till after he was laid upon the Bed.
Mr. Norton. Did you see Lord *Ferrers* after Mr. *Johnson* was laid upon the Bed ?
Dolman. Yes.
Mr. Norton. Did you hear any Conversation between my Lord and Mr. *Johnson* at the Time Mr. *Johnson* was upon the Bed ?
Dolman. Lord *Ferrers* ordered me to go up and see what Mr. *Johnson* would have done.
Mr. Norton. Then his Lordship was not in the Room at that Time ?
Dolman. Not then ; he came in after.
Mr. Norton. What passed then ? What did you hear between them ?
Dolman. I went up Stairs, and asked Mr. *Johnson* how he did. He said, he was very poorly.
Mr. Norton. Was Lord *Ferrers* there then ?
Dolman. No.
Mr. Norton. How soon did he come in ?
Dolman. He did not come in till after I had fetched a Bed out of the Garret, and laid it on the Bedstead.
Mr. Norton. Did you hear his Lordship say any thing to Mr. *Johnson* ?
Dolman. Yes ; his Lordship told him, that he would shoot him through the Head.
Mr. Norton. Did Mr. *Johnson* make any Reply to that ?
Dolman. He said, No Matter how soon, my Lord.
Mr. Norton. What Time of the Night was this ?
Dolman. It might be between Four and Five o'Clock.
Earl Ferrers. Did not I send you for the Bed, and order it to be well aired ?
Dolman. Yes.
Lord Ravensworth. How long did you live with my Lord *Ferrers* before this supposed Accident ?
Dolman. It might be Two Months.
Lord Ravensworth. Did Mr. *Johnson* ever, during the Time you lived with my Lord *Ferrers*, before the 18th of January, to your Knowledge, come to Lord *Ferrers* ?
Dolman. Yes ; I have seen him there.
Lord Ravensworth. I should be glad to know, whether from your own Knowledge, or from any Conversation with others, you had any Reason to suspect or believe that Lord *Ferrers* bore Mr. *Johnson* any Ill-will ; or did his Lordship ever make any Complaint, to your Knowledge, in regard to Mr. *Johnson* ?
Dolman. No ; I never had.
Lord Ravensworth. At what Time did Mr. *Johnson* come to Lord *Ferrers* ?
Dolman. About Three o'Clock.

Lord Ravensworth. When Lord *Ferrers* and Mr. *Johnson* went into the Room, did Lord *Ferrers* appear to be in Liquor?

Dolman. No, not at all.

Lord Ravensworth. When you was in the Room, and Mr. *Johnson* said he was but poorly, did you imagine he was shot?

Dolman. No.

Lord Ravensworth. Did Lord *Ferrers* take Mr. *Johnson* by the Wig, before he said, he would shoot him through the Head?

Dolman. Yes.

Lord Ravensworth. Did you hear the Pistol go off, and where?

Dolman. I was in the Yard; and I heard the Pistol go off.

Lord Mansfield. Did you hear any Part of the Conversation between Lord *Ferrers* and the Deceased before the Pistol went off?

Dolman. I did not.

Lord Mansfield. Was you near enough to have heard it, if any such Conversation had passed?

Dolman. I was not.

Lord Mansfield. Had *Elizabeth Saxon*, from the Place where she was, a better Opportunity of hearing what passed?

Dolman. I cannot say.

Lord Mansfield. Where was you at that Time?

Dolman. I was in the Yard.

Lord Mansfield. Where was *Elizabeth Saxon*?

Dolman. She was in the Kitchen, I believe.

Lord Mansfield. What was the Distance between the Kitchen Door and the Room where Lord *Ferrers* and the Deceased were?

Dolman. I cannot justly tell.

Lord Mansfield. Might a Person that was at the Kitchen Door hear any Conversation or Words which passed between Two People in that Room?

Dolman. Yes.

Lord Mansfield. Was it as far off as to that Bench?

Dolman. Yes.

Earl Ferrers. Did you ever hear any Conversation that passed in my Room, at any Time when I had Company and you was in the Kitchen?

Dolman. I have heard Talking.

Earl Ferrers. Could you distinguish what was said?

Dolman. I never took Notice.

A Lord. Was you at the Kitchen Door when my Lord *Ferrers* and Mr. *Johnson* were in his Room?

Dolman. I was in the Kitchen.

A Lord. Did you hear Lord *Ferrers* tell Mr. *Johnson* to kneel on the other Knee?

Dolman. No; I heard no such Thing.

A Lord. Was you with the other Witnesses at the Time she says she heard these Words?

Dolman. I was not.

Lord Mansfield. I desire to know of this Witness, whether at the Time that the Pistol went off, she was not in the Yard; and the Maid, that heard the Conversation, at the Kitchen Door?

Dolman. I was in the Yard then.

Lord Mansfield. Where was you when you heard the Key lock the Door?

Dolman. I was in the Kitchen.

Lord Ravensworth. You say you was in the Room when Lord *Ferrers* went up to Mr. *Johnson*, and he pulled Mr. *Johnson* by the Wig, and said, he would shoot him; how long was that from the Time that you heard the Pistol go off?

Dolman. I cannot justly say.

Lord Ravensworth. What Space of Time was there, from the Time that you saw Mr. *Johnson* in the Room, to the Time that Lord *Ferrers* came and pulled him by the Wig, and said, he would shoot him through the Head?

Dolman. I cannot say, he had lain upon the Bed some Time.

Sarah Johnson sworn.

Mr. Perrott. You are the Daughter of *John Johnson*, to whom this Accident happened?

Johnson. Yes.

Mr. Perrott. Was your Father concerned in Lord *Ferrers*'s Estate?

Johnson. Not that I know of.

Mr. Perrott. Was he his Steward?

Johnson. He did live with him, but not within these Two Years.

Mr. Perrott. Did he receive any Rents?

Johnson. For nobody but Lord *Ferrers*.

Mr. Perrott. Did he rent any Farm that was Part of the Estate of Lord *Ferrers*?

Johnson. Not that I know of.

Mr. Perrott. Do you remember his going to Lord *Ferrers*, at any Time in *January* last?

Johnson. On the 18th of *January*.

Mr. Perrott. Do you know whether Lord *Ferrers* had been with your Father any short Time before that 18th of *January*?

Johnson. Lord *Ferrers* was at our House on the *Sunday* before.

Mr. Perrott. Did you hear any Conversation that passed between Lord *Ferrers* and your Father, on that *Sunday*?

Johnson. I did not; I came home before he was gone.

Mr. Perrott. Did you hear Lord *Ferrers* say any Thing to Mr. *Johnson*?

Johnson. No; I was not in the Room.

Mr. Perrott. Did not you know before the 18th of *January*, that your Father was to go on that Day to Lord *Ferrers*'s?

Johnson. I heard my Father say, that he was to go to Lord *Ferrers*'s on the *Friday*.

Mr. Perrott. Do you know upon what Occasion he was to go?

Johnson. No.

Mr. Perrott. Upon whose Appointment?

Johnson. No.

Mr. Perrott. Was you sent for to Lord *Ferrers*'s on the 18th of *January*?

Johnson. Yes.

Mr. Perrott. At what Time?

Johnson. I think it was between Four and Five o'Clock.

Mr. Perrott. Who sent for you?

Johnson. I believe it was Lord *Ferrers*.

Mr. Perrott. Who was it that came for you?

Johnson. A Man that was at Work there.

Mr. Perrott. What Message was brought to you?

Johnson. That I must come down to the Hall to Lord *Ferrers*.

Mr. Perrott. Then was any Thing said about your Father?

Johnson. I asked, what he wanted me for? and he said, my Father was taken very ill.

Mr. Perrott. When you got there, did you see my Lord *Ferrers*?

Johnson. Yes.

Mr. Perrott. What did he say to you?

Johnson. I cannot say: I asked him how my Father was; he ordered one of the Maids to go up Stairs, and shew me where my Father was.

Mr. Perrott. Was Lord *Ferrers* in the Room when you was with your Father?

Johnson. He followed me up directly.

Mr. Perrott. In what Condition did you find your Father?

Johnson. He was in Bed; but he did not say any Thing to me.

Mr. Perrott. Did Lord *Ferrers* say any Thing?

Johnson. When Lord *Ferrers* came up, he said, he thought he had not shot him.

Mr. Perrott. Was any Thing done upon that?

Johnson. Some Time after that, Lord *Ferrers* came up again; and I, or he, turned the Cloaths down; and he said, he saw he had shot him; and throwed something out of a Bottle; I don't know what it was; he poured something upon it, out of a Bottle.

Mr. Perrott. Who poured that out of the Bottle?

Johnson. Lord *Ferrers*.

Mr. Perrott. Did he tell you how the Accident happened?

Johnson. He did not then say any Thing about that.

Mr. Perrott. Did he at any Time?

Johnson. He said, he did not know what he had done; he had shot him; he said, it was what he designed.

Mr. Perrott. Was that the same Day or afterwards?

Johnson. The same Day.

Mr. Perrott. Did Lord *Ferrers* say any Thing about your Father's Family?

Johnson. He said he would take Care of his Family, if my Father died.

Mr. Perrott. Was that all; was there no If?

Johnson. He said he was in hopes, I would not let any body come to take him; that he would take Care of the Family; that he would not go out of the House till my Father was buried, if he should die.

Mr. Perrott. Do you know of any Thing more that passed between Lord *Ferrers* and you, about your Father ?

Johnson. My Lord, when Mr. *Kirkland* was searching the Wound, shewed him which Way he held the Pistol when he let it off.

Mr. Perrott. Did Lord *Ferrers* say at that Time it was an Accident ?

Johnson. No ; he said he designed it.

Mr. Perrott. Did he give any Reason for it ?

Johnson. I did not hear him give any Reason for it.

Mr. Perrott. Do you know whether your Father was ever served with any Notice to quit a Farm ?

Johnson. Yes.

Mr. Perrott. What Farm was that ?

Johnson. The Farm he lived in.

Mr. Perrott. Whose Estate was it ?

Johnson. Lord *Ferrers's*.

Mr. Perrott. Who gave him that Notice ?

Johnson. Either Lord *Ferrers* or Mr. *Clifford* ; Mr. *Clifford* gave it me ; they were both together.

Paper produced.

Mr. Perrott. Is that the Paper ?

Johnson. Yes.

Paper read.

“ I Do hereby give you Notice to quit your Farm at *Lady-Day* next ensuing, or Six Months after the Date hereof, *November* the 7th, 1758, agreeable to your Lease granted to me,

“ *Richard Clifford.*”

Mr. Perrott. Was Lord *Ferrers* by when that was given to you ?

Johnson. Yes.

Mr. Perrott. Did you hear any Thing said about that Farm ?

Johnson. No.

Mr. Perrott. Shewing her the Body of the Paper, Whose Hand-writing is that ?

Johnson. This is Lord *Ferrers's*, I believe.

Mr. Perrott. Did you ever see Lord *Ferrers* write ?

Johnson. No.

Mr. Perrott. When you was up in the Room with Mr. *Johnson*, do you remember any body attempting to pull the Cloaths off ?

Johnson. Lord *Ferrers* attempted to pull them off.

Mr. Perrott. What Time was that ?

Johnson. I cannot say ; about Ten or Eleven o'Clock.

Mr. Perrott. Do you know of any Occasion that was given for my Lord's attempting to pull the Cloaths off your Father ?

Johnson. I cannot say what was the Reason of it.

Mr. Perrott. What had passed before that ?

Johnson. I cannot tell : Lord *Ferrers* seemed to be very angry before ; but I cannot tell what about.

Mr. Perrott. Did my Lord *Ferrers* pull off the Cloaths ?

Johnson. He did not pull them off.

Mr. Perrott. How did that happen ?

Johnson. I caught hold of them.

Mr. Perrott. Do you remember any thing That Lord *Ferrers* said at the Time that he attempted to pull off the Cloaths ?

Johnson. He said, he knew him to be a Villain, and that he had acted Things against him, that were not right.

Mr. Perrott. Did your Father say any Thing to you about Lord *Ferrers's* having shot him ?

Johnson. I don't remember he did.

Mr. Perrott. Did not your Father tell you, that Lord *Ferrers* had shot him ? And that he believed he should die ?

Johnson. I heard him say he believed he should die ; but I did not hear him say, that Lord *Ferrers* had shot him. I do not remember it. My Lord said, he knew the Pistol to be a good one, he had shot through a Board with it.

Mr. Perrott. Was any body by when Lord *Ferrers* said that he had shot him, and that it was what he designed?

Johnson. Mr. *Kirkland* was by.

Earl Ferrers. Do you think that I was sober when I came into the Room where your Father was?

Johnson. At the time I came in I think his Lordship was.

Mr. Perrott. At the Time of this Confession?

Johnson. I cannot tell: I think he was not quite sober when he said that.

Lord Talbot. I believe the Confusion of this unhappy Witness has occasioned an apparent, though not an intentional, Variation in her Evidence; therefore I desire she may be asked again about the Farm.

Mr. Perrott. Did you know of your Father's renting a Farm of Lord *Ferrers*?

Johnson. He rented no Farm but what he had of Lord *Ferrers*.

Mr. Perrott. And did he rent one of him?

Johnson. Yes.

Mr. Perrott. You was asked at first about the Lease; he might have the Farm and not the Lease.

Johnson. He had a Lease; but I believe he had it but the last Year.

Lord Ravensworth. I agree with the Noble Lord, that there is a particular Tenderness in the Situation of this Witness; but imagine your Lordships are desirous of knowing as many Particulars as may be relating to this unhappy Affair; therefore I desire this Witness may be asked, whether she, at any Time near the Time of the Decease of her Father, did hear her Father express any Degree of Uneasiness, or Apprehension, from his being to wait upon Lord *Ferrers*?

Johnson. No, I never heard him say, that he was afraid of going to Lord *Ferrers*'s.

Mr. Attorney General. My Lords, we will now call Mr. *Curzon* to prove the Body of the Notice that has been read, to be all of Lord *Ferrers*'s Hand-writing.

Earl Ferrers. I do not deny it. I hope the Witnesses may be detained by your Lordships, in case I should think proper to call them again.

Mr. Attorney General. My Lord, we will take Care that they shall be forth-coming.

Thomas Kirkland sworn.

Mr. Attorney General. What is your Profession, or Occupation?

Kirkland. A Surgeon.

Mr. Attorney General. Where do you chiefly practise?

Kirkland. At *Ashby De la Zouch*.

Mr. Attorney General. How far is that from Lord *Ferrers*'s House at *Stanton*?

Kirkland. Two computed Miles.

Mr. Attorney General. Do you know the Noble Earl at the Bar?

Kirkland. Yes.

Mr. Attorney General. How long have you known him?

Kirkland. I have known him many Years. I have been employed for his Lordship about Nine Years.

Mr. Attorney General. Did you know Mr. *Johnson* the deceased.

Kirkland. Yes.

Mr. Attorney General. How long did you know him?

Kirkland. I have known him a great many Years. I have been intimately acquainted with him Ten or Eleven.

Mr. Attorney General. Had he any Employ under my Lord *Ferrers*, or any Part of his Family?

Kirkland. I believe so.

Mr. Attorney General. What was his Employ?

Kirkland. Steward.

Mr. Attorney General. Did you, in the Month of *January* last, see Mr. *Johnson* or my Lord *Ferrers*?

Kirkland. I saw them together.

Mr. Attorney General. At what time in that Month in particular?

Kirkland. The Eighteenth of *January*.

Mr. Attorney General. What Day of the Week?

Kirkland. On *Friday*.

Mr. Attorney General. Upon what Occasion did you see the one or the other?

Kirkland. I saw Mr. *Johnson* to take Care of a Wound he had received in his Left Side.

Mr. Attorney General. Who sent for you?

Kirkland. They told me that Lord *Ferrers* had sent for me.

Mr.

Mr. Attorney General. Who was sent for you? What was his Name?

Kirkland. I have since found that his Name is *Henry Wales*.

Mr. Attorney General. At what time did you receive that Message?

Kirkland. About Five o'Clock in the Afternoon.

Mr. Attorney General. Where was you at that time?

Kirkland. At *Caleorton*.

Mr. Attorney General. How far is that from *Stanton*?

Kirkland. A Mile and a Half, or a Mile.

Mr. Attorney General. Did you go directly to *Stanton*?

Kirkland. I went first to the *Lount*.

Mr. Attorney General. What Place was that?

Kirkland. The Place where *Mr. Johnson* lived.

Mr. Attorney General. How far is that from *Stanton*?

Kirkland. I think Half a Mile, or it may be a little more.

Mr. Attorney General. Did you hear any thing there?

Kirkland. I first heard at the *Lount*, that *Mr. Johnson* was shot; the Boy that came for me, told me that he was sent to me from my Lord.

Mr. Attorney General. Did you, when you came to the *Lount*, and had had this Intelligence, proceed to *Stanton*?

Kirkland. Yes.

Mr. Attorney General. When you came there, who did you see?

Kirkland. I met one of the Servant Girls in the Close next to the Yard.

Mr. Attorney General. What was the Girl's Name?

Kirkland. I cannot tell, it was dark.

Mr. Attorney General. Did any Thing pass there?

Kirkland. She said my Lord had been charging Guns and Pistols.

Mr. Attorney General. What happened next?

Kirkland. I heard my Lord calling out in the Yard, who is there? I immediately spoke to his Lordship; he ordered me to come along. I went to him; he told me, he had shot *Johnson*, and desired I would go and take Care of him. As we went along, his Lordship desired I would not suffer him to be seized, because *Johnson* was not dead; and if any body offered to seize him, he would shoot them.

Mr. Attorney General. What Answer did you make to that?

Kirkland. I told his Lordship, that nobody should meddle with him. I then went up Stairs; and upon seeing *Mr. Johnson*, and that he had lost no Blood, I bled him.

Mr. Attorney General. Did *Mr. Johnson* make any Complaint?

Kirkland. He complained of a violent Pain in his Bowels.

Mr. Attorney General. Did he at that time say that he had received any Wound, and where was it?

Kirkland. I looked, and found the Wound below the lowest Rib, on his Left Side.

Mr. Attorney General. How large was that Wound?

Kirkland. I put my little Finger into it. I then took a Director to search the Wound. My Lord told me, *Mr. Kirkland*, you must pass your Instrument flaunting downwards, I held the Pistol in this manner when I shot him. After that my Lord asked me, whether I could find the Ball? I said no, it was lodged in the Abdomen; and after this he again asked me, if I could not extract it? I told his Lordship I believed it would be better to remain where it was (indeed I looked upon it impracticable to extract it). My Lord asked me then, what would be the Consequence of the Ball's lying in the Abdomen? I told him that Balls often lay there many Years, without giving any Disturbance: With this my Lord seemed satisfied, and said he knew they would.

Mr. Attorney General. Was there any Surprise expressed by any body at the Ball's being lodged, or any thing said?

Kirkland. I cannot say there was.

Mr. Attorney General. Was any thing said concerning the Goodness of the Pistol?

Kirkland. My Lord asked me, if the Ball had not gone through? I told him no. He said he wondered it had not; for this Pistol had carried a Ball thro' a Board, and broke the Bricks, or Wall, I don't know which.

Mr. Attorney General. Was *Mr. Johnson* by, and did he hear what passed?

Kirkland. Yes he did.

Mr. Attorney General. Did this provoke him to utter any thing?

Kirkland. He did. My Lord went out of the Room at that time, and *Mr. Johnson* said, what a Villain this is.

Mr. Attorney General. Did you order any thing to be prepared for the Dressing of the Wound?

Kirkland. I dressed the Wound ; it had already been dressed. There was a Dressing upon it. I ordered a Fomentation, and what other Things I thought proper. I then went down Stairs. My Lord told me, he thought *Johnson* was more frightened than hurt.

Mr. Attorney General. Did you both go down Stairs ?

Kirkland. No, we did not.

Mr. Attorney General. You said it had been dressed before, What was that Dressing ?

Kirkland. I believe, tho' I am not certain, it was *Arquebusade*.

Mr. Attorney General. Was there any Plaister found upon it ?

Kirkland. To the best of my Remembrance there was not.

Mr. Attorney General. Was there a Rag upon it ?

Kirkland. I believe there was ; a Rag that had been dipt in *Arquebusade*. After my Lord's telling me that *Johnson* was more frightened than hurt, he said, he intended to have shot him dead, and that, seeing he did not fall at first, he intended to shoot him again ; but the Pain he complained of made him forbear. Says he, there Nature did take Place, in Opposition to the Resolution I had formed. And, says he, it is cruel not to give him Ease, now I have spared his Life ; therefore I desire you would do all you can for him. One Thing I omitted to mention, while I was up Stairs. My Lord desired I would take all the Care imaginable of Mr. *Johnson* ; that he would send one of his Servants for any Thing I wanted.—I forgot to relate to your Lordships, that my Lord was in Liquor when I saw him. He desired, when I spoke of this Affair, that I would not say, tho' he desired me to ease him of his Pain, that he repented of what he had done. He was not sorry for it ; for he owned it was premeditated ; that he intended to shoot him, for he said he was a Villain and deserved Death. But, says he, as he is not dead, I desire you will not suffer my being seized ; for, if he dies, I will go and surrender myself to the House of Lords ; I have enough to justify the Action : Perhaps they may not excuse me, but it will satisfy my own Conscience.

Mr. Attorney General. Did he say any Thing about his going away, or not going away, the next Morning ?

Kirkland. He told me thus : *Kirkland*, be sure you don't go away in the Morning before I have seen you. I will get up at Four o'Clock, or at any time that you call. I told his Lordship I would let him know before I went.

Mr. Attorney General. What particular Complaint did Mr. *Johnson* labour under when you went ?

Kirkland. A Pain in his Bowels.

Mr. Attorney General. What other Complaints had he ?

Kirkland. A Strangury. A Difficulty of making Water.

Mr. Attorney General. What did my Lord *Ferrers* say upon that ?

Kirkland. He asked me : “ *Kirkland*, don't you think that the Bladder or Kidneys are “ wounded ? ” And what would be the Consequence ? I set it in such a Light as to make him believe that they might, and no bad Consequence ensue.

Mr. Attorney General. Was that, or was it not, your Rule, upon which you represented Things in this Light ?

Kirkland. I, immediately from the Time of my seeing Mr. *Johnson*, thought he would be dead ; but I thought it prudent to deceive my Lord for our Safety.

Mr. Attorney General. Was my Lord satisfied with this flattering Account that you gave ?

Kirkland. Yes, he seemed satisfied.

Mr. Attorney General. Were any Orders given to get Things in Readiness ; any Orders for the Horses ?

Kirkland. I don't know any Thing but what the Servants told me.

Mr. Attorney General. Did any Discourse pass between you relating to their Seizure of my Lord's Person ?

Kirkland. My Lord did desire that I would take Care he was not seized, and I promised him I would.

Mr. Attorney General. Did you tell him how you meant to represent it ?

Kirkland. My Lord asked me, what I should say upon the Occasion, if I was called upon ? I told his Lordship that I should say, that, tho' Mr. *Johnson* was shot, yet there was a great Probability of his recovering ; and that I thought there was no Necessity of seizing his Lordship. His Lordship then asked me, if I would make Oath of that before a Justice of the Peace if I was called upon ? I said, Yes.

Mr. Attorney General. Where was this ? and about what Part of the Night did the last Conversation pass ?

Kirkland. It was in the Parlour.

Mr. Attorney General. What time was it ? Was it an Hour before Supper ?

Kirkland. I think this was before Supper ; but it was repeated before and after Supper.

Mr. Attorney General. Did my Lord, in this Discourse, say any Thing relating to Mr. *Johnson* ?

Kirkland. He told me, that Mr. *Johnson* had long been a Villain to him. He said, he began his Villany in 1753 ; that he assisted in procuring the Act of Parliament ; that he was in the Interest of his Enemies ; that, on Mr. *Johnson*'s first coming there in the Afternoon, he ordered him to settle an Account. He then told him, *Johnson*, you have been a Villain to me ; if you don't sign a Paper, confessing all your Villainy, I'll shoot you. My Lord told me *Johnson* would not sign one. Therefore, says he, I bid him kneel down on his Knees to ask my Pardon. I said, *Johnson*, if you have any thing to say, speak quickly. Then, says he, I fired at him. I know he did not think I would have shot him ; but I was determined to do it. I was quite cool. I took Aim ; for I always aim with a Pistol in this manner.

Mr. Attorney General. Did any Thing pass in reference to the Farm ?

Kirkland. My Lord told me he had long wanted to drive *Johnson* out of his Farm ; and that he imagined, after he recovered, he would go into *Cheeshire* from whence he came, and give him no more Disturbance. He said he had long intended to shoot him : That the chief Reason he did it at this time was, an Affair between Mr. *Curzon*, Mr. *Burslem*, and his Lordship. But the greatest Part of this Discourse was at the time that my Lord was full of Liquor.

Mr. Attorney General. Was he so full of Liquor as to be deprived of his Understanding ?

Kirkland. I think not ; he seemed to understand very well what he did ?

Mr. Attorney General. Was he in Liquor when you first saw him ?

Kirkland. Yes ; not much.

Mr. Attorney General. Did he continue drinking during the Time you saw him ?

Kirkland. He was drinking Porter ; they said it was Porter.

Mr. Attorney General. Did you go to Mr. *Johnson* again ?

Kirkland. Yes ; after Supper I went up Stairs to Mr. *Johnson* ; nothing material passed ; but my Lord inquired what I thought of Mr. *Johnson* ; and upon my setting Things in the Light I thought I should, my Lord seemed very well satisfied.

Mr. Attorney General. Was any Thing said about the Bowels or Guts ?

Kirkland. My Lord asked, if the Bowels were wounded, what would be the Consequence ? I said, some had had Wounds in their Bowels and recovered.

Mr. Attorney General. There was an Expression used, that the Bullet was lodged in the Abdomen ; Was that yours or my Lord's Expression ?

Kirkland. It was my Expression.

Mr. Attorney General. Did you and my Lord sit together in the Evening ?

Kirkland. Yes.

Mr. Attorney General. Was any Wine brought ?

Kirkland. Yes ; Mrs. *Clifford* brought a Bottle of Wine, and then his Lordship again repeated, that he had shot *Johnson*, and that he intended it.

Mr. Attorney General. Was there any Thing passed between you relative to my Lord's Circumstances ?

Kirkland. A little before he went to Bed, before I went to Mr. *Johnson* the last Time, my Lord said, *Kirkland*, I know you can set this Affair in such a Light, that I shall not be seized if you will ; I owe you a Bill, you may have some of your Money now, and the rest when you want it ; I told his Lordship I did not want Money, I should be glad to receive it, when it was most convenient to him.

Mr. Attorney General. Did you afterwards see my Lord and Mr. *Johnson* together ?

Kirkland. Yes.

Mr. Attorney General. What passed ?

Kirkland. My Lord went up to the Bedside, and spoke it temperately ; *Johnson*, you know you have been a Villain to me ; Mr. *Johnson* made no Answer, but desired my Lord to let him alone at that Time : My Lord kept calling of him Villain ; his Passion rose, and he began to pull the Bed Cloaths, and said, have not you been a Villain ? Mr. *Johnson* said, my Lord, I may have been wrong as well as others : Upon this, my Lord run up in a violent Passion to the Bedside, I thought he would have struck him ; but upon Mr. *Johnson*'s declaring, he might have been a Villain to his Lordship, my Lord went to the Fire-side.

Mr. Attorney General. How came Mr. *Johnson* to make that Answer ?

Kirkland. I winked at him, and he made the Answer.

Mr. Attorney General. Was Miss *Johnson* in the Room ?

Kirkland. Yes ; my Lord went to her, after he had abused her Father, and said, Though he has been a Villain to me, I promise you before *Kirkland*, who I desire to be a Witness, that I will take Care of your Family, if you do not prosecute.

Mr. Attorney General. Did my Lord go out of the Room ?

Kirkland. Yes ; he went down Stairs ; he sent for me, and told me, he was afraid he had made Miss *Johnson* uneasy ; he desired I would tell her, he would be her Friend : We came up Stairs together ; his Lordship asked at the Top of the Stairs, whether I thought Mr. *Johnson* would

would recover ; I replied, Yes ; he said, then I may go to Bed in Safety ; he went to Bed directly.

Mr. Attorney General. What passed after ?

Kirkland. The first Thing I did I went to Mr. *Johnson*, who desired, for God's Sake, that I would remove him ; while we were talking, I heard my Lord open the Door, and call up his Pointer : Mr. *Johnson* was a good deal alarmed at it, fearing my Lord should come again ; but my Lord shut the Door ; then he again intreated me to remove him.

Mr. Attorney General. Was any Proposal made to remove him before that ?

Kirkland. Yes ; Mrs. *Clifford* came down before that into the Still Room, and said, cannot *Johnson* be removed ? My Lord replied, No, he shall not be removed, till he be either better or dead : And some time after that he said, he was glad he had him in the House, that he could plague the Rascal ; or some such Words.

Mr. Attorney General. Why did you propose to remove him ?

Kirkland. I thought it prudent for many Reasons to remove him ; I imagined, Mr. *Johnson* would die ; and if my Lord came and found him dying, his Resentment would rise against me ; besides, Mr. *Johnson* was in a good deal of Apprehension of being again shot ; I really apprehended he might die through Fear, for he was a Man of a very weak Constitution ; upon this, I went to the *Lount*, and got a Parcel of Fellows, and placed Mr. *Johnson* in an easy Chair, and carried him upon Poles to the *Lount*, where he got without being much fatigued.

Mr. Attorney General. Did you apprehend that the moving would be prejudicial to him, considering the Condition he was in ?

Kirkland. It is impossible to say it might not ; but there was much more Danger in leaving him at *Stanton* ; and he expressed Satisfaction on my removing him : When he came there, he desired he might be removed from one Room where he was, into another ; for he said, my Lord might come and shoot him there, the Window was facing the Bed ; I told him, he might make himself easy, I would place a Centry at each Door.

Mr. Attorney General. At what Time was Mr. *Johnson* removed ?

Kirkland. I believe about Two o'Clock in the Morning ; I am not quite certain of the Hour.

Mr. Attorney General. How long did he live after that ?

Kirkland. He lived, as I was informed, till about Nine ; I did not leave him till Seven o'Clock.

Mr. Attorney General. In what Condition was he when you left him ?

Kirkland. Weak and low, and cold in the Extremities.

Mr. Attorney General. What was your Judgment about him ?

Kirkland. That he would be dead ; he thought so himself.

Mr. Attorney General. What happened after he was dead ?

Kirkland. Nothing more than my examining the Body.

Mr. Attorney General. What did you do upon that ?

Kirkland. I examined it the next Day, when the Coroner's Inquest was taken.

Mr. Attorney General. Did you give an Account of the Wound ?

Kirkland. The Ball had passed just under the lowest Rib, on the Left Side, through One of the Guts, and through a Bone we call the *Os Inominatum*, and lodg'd in the Bone called the *Os Sacrum*.

Mr. Attorney General. Do you apprehend that Mr. *Johnson* died of that Wound ?

Kirkland. I do ; I am clear in it.

Mr. Attorney General. Was you there when the Earl was seized ?

Kirkland. I was not ; I went to ask Advice what was to be done.

Earl Ferrers. You said that when I asked you to extract the Ball, that it was lodged in the Abdomen, and that I wondered at it.

Kirkland. That Question was asked before I told your Lordship it was lodged ; I remember the Question was asked.

Earl Ferrers. When I told you I had shot it through a Deal, was it not mentioned with Surprise ?

Kirkland. The Surprise seemed to be, that it had not also gone through the Man.

Earl Ferrers. At the Time that we were talking this over a Bottle of Wine, did you talk with me as a Friend ; or did you intend to betray me ?

Kirkland. I do own, my Lord, that I intended to deceive you ; and I thought it absolutely necessary.

Earl Ferrers. Did you intend to give this in Evidence ?

Kirkland. I knew I should be called upon on this Occasion.

Earl Ferrers. Did you not take Advantage of my being in Liquor ?

Kirkland. No, I could not, my Lord ; what you said was quite voluntary.

Earl

Earl Ferrers. Did I say I had come to a Resolution to do it deliberately?

Kirkland. I do not remember.

Earl Ferrers. Did you never hear me say, that I did not intend to kill him?

Kirkland. Your Lordship did.

A Lord. Did you, at any Time, hear Mr. *Johnson* say, that Lord *Ferrers* had shot him?

Kirkland. As soon as Mr. *Johnson* had got home, I said to him, Was my Lord in Liquor when he shot you? He was, when I first saw him. Mr. *Johnson* said, No, he was not: I imagined he got what Liquor he had afterwards. I did not think he would have shot me. I thought he only wanted me to sign a Paper. I asked him, Was you down on your Knee when my Lord shot you? He said, I think when my Lord shot me I was rising; though I cannot be sure whether I was or not, being hurried.

Mr. Attorney General. At the Time of this Relation of Mr. *Johnson's*, was any other Person present?

Kirkland. No, there was none; we were by ourselves in the Room.

Mr. Attorney General. Did you hear my Lord say to Miss *Johnson*, that he would take Care of them?

Kirkland. Yes, I heard my Lord say so to Miss *Johnson*.

Mr. Attorney General. He said to you, I owe you a Bill?

Kirkland. My Lord said, You can set this Matter right: If you do, I owe you a Bill; you may have some Money now, and the rest when you want it.

Mr. Attorney General. Did you ever hear Mr. *Johnson* express any Apprehension of my Lord *Ferrers*?

Kirkland. Mr. *Johnson*, in Conversation at different Times, has said to me, he did not think my Lord *Ferrers* would do him any Harm.

Lord Talbot. My Lords, this Witness has told you, that in One of his Conversations with Lord *Ferrers* his Lordship declared, that he did not intend to kill Mr. *Johnson*; and also that Lord *Ferrers* shewed him the Position in which he held the Pistol, when his Lordship thought the Instrument went wrong, as Mr. *Kirkland* was probing the Wound; I would ask, whether the Conversation was previous or subsequent to the probing the Wound?

Kirkland. He told me, before I entered the Director into the Wound, You must pass it in that Manner. The other Conversation was subsequent to this.

Lord Talbot. Do you believe that his Lordship's shewing the Position of the Pistol, in order to acquaint you with the Direction of the Ball, was with an Intention to facilitate your Operation?

Kirkland. I believe it was.

Mr. Attorney General. Did he appear in Liquor?

Kirkland. He was in Liquor at first; but it got more upon him.

Mr. Attorney General. As that unhappy Fury rose, the more Liquor he had, the more he seemed to persist in the Action?

Kirkland. Yes.

Mr. Attorney General. But when he was calmer, in his better Senses, he said, he did not wish to kill him?

Kirkland. No; he said at first, that he intended to kill him.

A Lord. When he told you the Direction of the Ball, did he not mean that tenderly, to assist the unfortunate Man?

Kirkland. I took it, that he was directing me to enquire into the Nature of the Wound.

A Lord. Could he direct you with any other View than to assist?

Kirkland. I remember when I told my Lord the Ball could not be extracted, he said, I do not intend to direct you; pursue your own Method, and do the best you can for him.

A Lord. You mentioned that he sent to you?

Kirkland. Yes.

Lord Mansfield. You have said, that, from the first to the last, Lord *Ferrers* told you that he designed to kill the Deceased; now, in Answer to a Question lately asked, you say, he said, he did not intend to kill him; upon what Occasion did he say that?

Kirkland. I think we sat by the Fire in the Still-Room, but I am not quite certain, and his Lordship said, that he did not intend to shoot him dead; I intended only to make him smart, and shoot him into the Hip, or Side.

Lord Mansfield. Could such a Wound as this be given to a Man without a certain Hazard of his Life?

Kirkland. It was certain Death to such a Constitution as Mr. *Johnson's*.

Lord Mansfield. How long after this Time was it, that he told you that you could set that Matter right?

Kirkland. He mentioned it at the very Beginning, and several Times after, till the End of the Evening.

Lord Mansfield. Did your Fear of Lord *Ferrers*, arise from his being in Liquor?

Kirkland. I should not have been afraid of Lord *Ferrers* if he had not been in Liquor; I thought, if he had found Mr. *Johnson* had died, that, as I had deceived him, I should have had his Resentment.

Lord Mansfield. Did you see Lord *Ferrers* in the Morning?

Kirkland. No. I did not.

Mr. Springthorpe, sworn.

Mr. Gould. My Lords, we call this Witness to give an Account of the Manner of seizing Lord *Ferrers*, and what passed upon that Occasion.

Mr. Gould. Was you present at the Time of taking Lord *Ferrers*?

Springthorpe. I was.

Mr. Gould. What Day was it?

Springthorpe. On Saturday Morning.

Mr. Gould. What Time in the Morning?

Springthorpe. I believe it was between Ten and Eleven o'Clock.

Mr. Gould. Had you a Multitude of People with you?

Springthorpe. The first Part of the Time I had not; but before he was taken there were a great many.

Mr. Gould. Was you armed?

Springthorpe. I had a Pistol I took from Mr. *Burslem's*.

Mr. Gould. Where did you go first?

Springthorpe. I went to see Mr. *Johnson*; he was my Friend, and I found he was dead. Mr. *Burslem* desired I would go and help to take Lord *Ferrers*: I condescended to do it. When I came to the Hall Yard, my Lord, in a few Minutes, came; he seemed to be going to the Stable, with his Stockings down, and his Garters in his Hands; his Lordship seeing me, demanded to know what I wanted. I presented my Pistol to his Lordship, and I said it was he I wanted, and I would have him; he put his Hand, whether he was going to put his Garters in his Pocket, or to pull out a Pistol, I cannot say: but he suddenly run into the House: I never saw more of him for two Hours; in about two Hours he came to the Garret Window; I went under the Window; he called, I asked what he wanted; he said, How is *Johnson*? I said he was dead; he said, you are a lying Scoundrel, G——d d——n you. I told him he was dead; he said, I will not believe it till *Kirkland* tells me so. I said he was dead; he said, then disperse the People and I will go and surrender: Let the People in, and let them have some Victuals and Drink. I told him I did not come for Victuals, but for him, and I would have him. He went away from the Window, swearing he would not be taken. Two Hours after that, there was a Report that he was upon the Bowling-green; I was at this Part of the House; I run there, and, by the Time I got there; I saw two Colliers had hold of his Lordship. I said, I would take Care no-body should hurt him. I took from a Man that had hold of him, a Pistol and a Powder-Horn; I shot the Pistol off, and it made a great Impression against the Stones. I heard my Lord say, he had shot a Villain and a Scoundrel, and, clapping his Hand upon his Bosom, he said, I glory in his Death. That is all I know of the Matter.

Francis Kinsey sworn.

Mr. Norton. You keep a Public-House at *Ashby De la Zouch*?

Kinsey. Yes.

Mr. Norton. Was Lord *Ferrers* brought to your House when he was apprehended?

Kinsey. Yes.

Mr. Norton. Did you hear him say any Thing about killing of *Johnson*?

Kinsey. I heard very little of it.

Mr. Norton. Do you remember one Mr. *Hall*, a Clergyman, coming to your House at that Time?

Kinsey. Yes.

Mr. Norton. Did he desire to be admitted to Lord *Ferrers*?

Kinsey. Yes.

Mr. Norton. Did you hear what passed between Mr. *Hall* and my Lord *Ferrers*?

Kinsey. A great many Words passed.

Mr. Norton. What passed?

Kinsey. I heard Mr. *Hall* intimate to his Lordship, as a Clergyman, that his Lordship seemed to be pretty much in Liquor at that Time, and desired he would not make Use of those Expressions. He told Mr. *Hall* he was extremely obliged to him for his good Advice; he apprehended what it was; however, he told Mr. *Hall* that he knew his Duty, perhaps as well as a Justice of Peace.

Mr. Norton. Was Mr. *Hall* a Justice of Peace?

Kinsey. Yes. I did not hear much more said between Mr. *Hall* and my Lord *Ferrers*. Mr. *Hall* staid with his Lordship some Time in the same Room; then he came down Stairs, and I never saw him afterwards.

Mr. Norton. Did he say any Thing about killing of Mr. *Johnson*?

Kinsey. He asked, a great many Times, if I had heard that *Johnson* was dead; I told him, a good many Times, that I heard he was dead: He said, I will not be convinced till I hear it from the Coroner.

Mr. Norton. Did he say any Thing else?

Kinsey. His Lordship behaved very well with me, and decently, from the *Saturday*, to the *Monday* at Ten o'Clock.

Mr. Attorney General. My Lords, we rest it here for the Crown.

Lord High Steward. My Lord *Ferrers*, the Council for the Crown have done; now is the Time for your Lordship to make your Defence; and if you have any Witnesses to examine, now is your Time to call them.

Earl Ferrers. My Lords, there have been a great Variety of Circumstances that have appeared through the Course of this Evidence. I really do not recollect any Thing that happened since the Time relative to the Affair; and I should hope your Lordships would give me a farther Day to make my Defence.

Lord High Steward. Your Lordship hath had a great deal of Time, and you have had Council assigned you, and Orders for summoning your Witnesses. It is now the Time to proceed to your Defence.

Earl Ferrers. I hope your Lordships will be so good as to give me till To-morrow, as there are some Circumstances that I could wish to consult my Council about.

Lord Mansfield. My Lords, as your Lordships cannot debate here upon the Application that has been made by the Noble Lord at the Bar, to adjourn the Trial till To-morrow, I could wish he would open to your Lordships the Nature of his Defence, or some Reason why he is not prepared to go on now; otherwise, when your Lordships adjourn, you will have nothing to debate upon, but barely whether there shall be this Delay because it is asked; and it may be a dangerous Precedent to establish, that a Trial shall be adjourned, as of course, if desired, just when the Evidence in Support of the Prosecution is closed. If he should give your Lordships a Reason for it, then it will be in your Lordships Discretion, whether that Reason is sufficient to induce your Lordships to adjourn till To-morrow. I think he should open the Nature of his Defence, and state some Ground for the Delay he asks.

Elizabeth Burgeland called in again.

A Lord. Do you know of any particular Quantity of strong Liquor, of any Kind, that Lord *Ferrers* had drank that Day?

Burgeland. No. I cannot tell any Thing of it: He drank some Brandy in his Tea in the Morning.

A Lord. Who is the Person that kept the Key of the strong Liquor?

Burgeland. Mrs. *Clifford*.

A Lord. Do you know of any that he had that Day?

Burgeland. I cannot tell any Thing about it.

A Lord. Was it usual for my Lord to drink Brandy in his Tea?

Burgeland. He did not drink Tea every Morning; but, when he drank Tea, I believe he did put Brandy in it.

A Lord. Was Mrs. *Clifford* returned to the Hall before the Surgeon, Mr. *Kirkland*?

Burgeland. Yes.

A Lord. How long?

Burgeland. I cannot justly say; it may be near, or near upon two Hours.

A Lord. Had you, or any Person, carried any strong Liquor to my Lord before Mr. *Kirkland* came?

Burgeland. I cannot tell any Thing about it.

A Lord. At what Time did Lord *Ferrers* dine that Day?

Burgeland. At Two o'Clock.

A Lord. When you saw Lord *Ferrers*, after the Fact, was he drunk, or sober?

Burgeland.

Burgeland. I did not observe he was much in Liquor then ; but, soon after, he was quite fuddled.

A Lord. The first Time you saw him after the Pistol went off, how was he then?

Burgeland. I did not observe that he was much in Liquor at the Time when it was done.

A Lord. Did you see him any Part of that Day, before you heard the Pistol go off, or before Mr. *Kirkland* came to the House, appear intoxicated with Liquor?

Burgeland. I saw him at Dinner ; I never saw him after till it was done.

A Lord. How was he at Dinner?

Burgeland. My Lord was sober at Dinner.

Earl Ferrers. My Lords, by the Kind of Defence recommended to me it will be impossible to go on at present ; there are several Witnesses to be examined, and, really, my Lords, I am quite unprepared.

Earl of Hardwicke. I believe it is expected by your Lordships, that the Noble Lord at the Bar should now open to you the Nature of his Defence.

Lord High Steward. My Lord *Ferrers*, it is required that you should open the Nature of your Defence ; my Lords will be able to judge, from that, whether it will be proper to give your Lordship Time to make your Defence, agreeable to your Request.

Earl Ferrers. My Lords, I can hardly express myself, the very Circumstance shocks me so much ; but I am informed, from several Circumstances, of an Indisposition of Mind.

Then the Lord High Steward returned back to the Chair.

Lord Ravensworth. My Lords, I move your Lordships to adjourn to the Chamber of Parliament.

Lord High Steward. Is it your Lordships Pleasure to adjourn to the Chamber of Parliament?

Lords. Ay, ay.

Lord High Steward. This House is adjourned to the Chamber of Parliament.

The Lords, and others, returned to the Chamber of Parliament, in the same Order they came down ; and, after some Time, the House was adjourned again into *Westminster Hall*, and the Peers being there seated, and the Lord High Steward in his Chair, and the House resumed, the Serjeant at Arms made Proclamation for Silence, as usual.

Lord High Steward. My Lord *Ferrers*, you are to proceed to your Defence.

Earl Ferrers. My Lords, the Kind of Defence I mentioned to your Lordships before, I really don't know how myself to enter upon ; it is what my Family have considered for me, and they have engaged all the Evidence that are to be examined upon this unhappy Occasion, who I really have not seen ; I do not well know what they have to say : I should, therefore, hope your Lordships will give me all the Assistance that is possible in their Examination.

My Lords, I believe that what I have already mentioned to your Lordships, as the Ground of this Defence, has been a Family Complaint ; and I have heard that my own Family have, of late, endeavoured to prove me such. The Defence I mean is occasional Insanity of Mind ; and I am convinced, from recollecting within myself, that, at the Time of this Action, I could not know what I was about. I say, my Lords, upon reflecting within myself, I am convinced, that at that Time I could not know what I was about.

It has been too plainly proved, that, at the Time this Accident happened, I was very sober, that I was not disordered with Liquor : Your Lordships will observe, from the Evidence both of Mr. *Kirkland* and Miss *Johnson*, that it plainly appeared that this Man never suspected there was any Malice, or that I had any.

Mr. John Bennefold sworn.

Earl Ferrers. How long have you known me?

Bennefold. Above these Twenty Years.

Earl Ferrers. Was you ever employed by me in any Shape?

Bennefold. Yes.

Earl Ferrers. In what Shape?

Bennefold. In receiving his Lordship's Rents, when they were sent him out of the Country.

Earl Ferrers. Did you know any of the Family besides me?

Bennefold. Yes.

Earl Ferrers. Do you remember my Uncle, or any other of the Family?

Bennefold. Yes, the late Lord *Ferrers*, *Henry*.

Earl Ferrers. What Disorder had he?

Bennefold. Lunacy.

Earl Ferrers. How many Years before he died?

Bennefold. Several Years before he died, at *Kensington Gore*.

Earl

Earl Ferrers. Did you know Lady Barbara Shirley?

Bennefold. No.

Earl Ferrers. Did you never hear that she was disordered?

Bennefold. Yes, I have.

Earl Ferrers. Please to observe what you know of my Conduct, as to the State of my Mind, without having any particular Questions asked you?

Bennefold. His Lordship has always behaved in a very strange manner, very flighty, very much like a Man out of his Mind, more particularly so within these Two Years past, such as being in Liquor, and swearing and cursing, and the like, and talking to himself, very much like a Man disordered in his Senses; and then he has behaved himself as well as any other Gentleman at times.

Earl Ferrers. Do you know of any particular Time, or of any particular Action?

Bennefold. Nothing in particular, more than the particular Circumstances of my Lady, and expressing great Hardships, and Dissatisfaction with the Act of Parliament.

Earl Ferrers. Have you observed irrational Behaviour when I have not been in Liquor?

Bennefold. Yes, I have.

Earl Ferrers. Was it frequent or seldom?

Bennefold. It was often.

Earl Ferrers. Can you recollect any particular irrational Behaviour in me when I have not been in Liquor?

Bennefold. I cannot say that I can recollect any particular Passage.

Earl Ferrers. Did you ever see me walking about the Room, talking to myself; making Motions with my Head, and talking to myself?

Bennefold. Yes, a great many times.

Earl Ferrers. Did you think that I was disturbed in my Mind?

Bennefold. Yes.

Mr. Attorney General. My Lords, I should be glad to know what is this Witness's Trade and Occupation?

Bennefold. I am now Clerk of *St. James's* Parish; I was a Peruke-maker by Trade.

Mr. Attorney General. Was you acquainted with my Lord *Ferrers* in the Country or in Town?

Bennefold. In Town.

Mr. Attorney General. Was you admitted to my Lord's Friendship or Familiarity?

Bennefold. To both.

Mr. Attorney General. In Conversation at any time, have you observed my Lord to give you irrational or insensible Answers?

Bennefold. I cannot say he has given me any insensible Answers.

Mr. Attorney General. I should be glad to know whether you have any Reason to believe, from his Behaviour, that he did not understand enough to distinguish Right from Wrong?

Bennefold. That is a Question I am in some Doubt of answering.

Mr. Attorney General. I have asked as to your Opinion; if you will recollect what Discourse has passed between you, you will be able to give an Answer; now, from your Discourse and Conversation, do you think or believe he was in that State of Mind as not to know Right from Wrong at any time?

Bennefold. That is a Question I cannot answer to.

Mr. Attorney General. You will be pleased to recollect, that you told me, when I asked you, that my Lord never gave you an irrational Answer; why cannot you give your Opinion as to his Sanity?

Bennefold. My Lord's Behaviour appeared in general in such manner as I have mentioned.

Mr. Attorney General. My Lords, This Witness did not mention any particular Act, only talking to himself, and Motions with his Head; I am questioning him upon those kind of Acts that proceed from Words or Speeches: Did you ever, from his Words or Speeches, conceive that he was not himself?

Bennefold. No further than by being displeased, often talking to himself, like a Man that was out of his Mind.

Mr. Attorney General. Did my Lord manage his Affairs by himself?

Bennefold. He managed them himself; he gave me Directions.

Mr. Attorney General. Were those Directions reasonable and sensible?

Bennefold. Sometimes they were, though thought unreasonable and insensible by the Persons he wrote to.

Mr. Attorney General. Can you recollect any Instances, and the Persons that thought them so?

Bennefold. I cannot recollect any Circumstance relating to Family Matters; his Mother, when I have carried such Messages, has thought him to be in a wrong Mind, in writing to her in the manner he did.

Mr. Attorney General. Did Mrs. *Skirley* ever treat him as an insane Person, or talk of sending for a Physician to him?

Bennefold. Not that I know of.

Mr. Attorney General. Did any other Person think my Lord so insane as to want that?

Bennefold. I cannot recollect any Person in particular.

Mr. Attorney General. Was it easy to impose upon his Lordship in his Affairs, or difficult?

Bennefold. It was not easy to impose upon his Lordship, that I know of.

Mr. Attorney General. As you have known him so long, and have been admitted to his Familiarity, I wish you would recollect One single irrational Expression that you have ever heard him make use of.

Bennefold. I cannot recollect any in particular.

Mr. Attorney General. You say that he seemed displeased with his Lady, and with the Act of Parliament; please to recollect, whether, upon that Occasion, his Behaviour was such as betrayed his Insanity, or any thing that was irrational?

Bennefold. My Lord expressed a good deal of Dissatisfaction at the Act of Parliament.

Mr. Attorney General. What was the Dissatisfaction? and was it general as well as particular?

Bennefold. In relation to the Estate's being taken away, and Receivers being put upon it.

Mr. Attorney General. Do you apprehend that that Sort of Expression denoted Insanity or Sanity?

Bennefold. That I cannot take upon me to determine.

Mr. Attorney General. Please to recollect yourself, and give me an Answer to the Question: You said that he expressed a Dissatisfaction, because his Estate was taken from him, and a Receiver put upon it; I desire to know whether those Expressions bespeak a Man in his Senses or out of his Senses?

Bennefold. I cannot say whether that denoted him to be in his Senses or out of his Senses.

Mr. Attorney General. Are those Expressions the Expressions of a Fool, or of a Man of Understanding upon the Subject?

Bennefold. I should think, of a Man of Understanding.

Mr. Attorney General. You have not been able to answer as to any particular Speeches that denoted him to be insane; now do you remember any Act of his, of any kind, that denoted a disordered Mind?

Bennefold. I cannot say I can; I was not so often with him, though I have known him long.

Mr. Attorney General. Then I desire to know, whether Lord *Ferrers*, from the Conversation you had with him, appeared to be rather of better Parts than an ordinary kind of Man?

Bennefold. Yes, to be sure.

Mr. Thomas Goostrey sworn.

Earl Ferrers. How long have you known Lord *Ferrers*?

Goostrey. About Ten Years.

Earl Ferrers. How long have you been concerned for him?

Goostrey. About that time.

Earl Ferrers. Have you seen any Instances of any thing like Insanity in me?

Goostrey. I think I have.

Earl Ferrers. Please to mention the Instances.

Goostrey. I have been called upon very unexpectedly; I should have recollected myself, if I had had any Apprehension of being called upon.

Earl Ferrers. Then mention the Instances.

Goostrey. I know nothing within this Twelve Months past: Lord *Ferrers* always appeared to me to be of a very remarkable Disposition; and though Lord *Ferrers* was extremely sensible, and thoroughly acquainted with his Affairs, yet I have frequently had Directions from him to do Things that in my Opinion were either fruitless, or opposite to his interest, and upon those Occasions I have always found it in vain to endeavour to dissuade his Lordship from it; and as I always found that Lord *Ferrers* was extremely sensible, and thorough Master of his Affairs, I have never been capable of accounting for his Behaviour, otherwise than by apprehending that he has been at times out of his Mind.

Earl Ferrers. Do you remember any Instance where I appeared to be out of my Mind, and what?

Goostrey. I remember that all of a sudden he took it into his Head that he should be capable of impeaching a Family Settlement that he had long acquiesced under, and by which he was only Tenant for Life of his Estate; and though he had advised with many Lawyers upon the Occasion, and they were all of Opinion that it was impossible he could succeed, yet he per-

sisted in his Resolution of bringing a Suit to destroy that Settlement ; and upon those Occasions I have always found Lord *Ferrers* extremely strange ; and when he has touched upon that Subject, his Conversation has been very wild, and inconsistent with what I have looked upon a Man of Sense and Understanding to be ; and I remember One Instance, which was, when Lord *Ferrers* returned from my Lord *Westmorland's*, my Lord *Ferrers* followed me upon that Occasion into the City, and he came into the Room where I was with a great deal of Company. I perceived, by his Appearance, that something disturbed him, and therefore hastily came up to him, and got him out of the Room. When I came up to him, I asked him what was the Matter ; and did at first apprehend he had been in Liquor, but I soon perceived that he was perfectly sober. He then told me a strange inconsistent Story of his having been down at my Lord *Westmorland's*, and of his having been ill treated by Sir *Thomas Stapleton*, and the Intent of his coming to me was, to draw an Advertisement to be inserted in all the Papers, tending to challenge Sir *Thomas Stapleton*, and to post him for a Coward if he did not give him Satisfaction. I was extremely uneasy ; and with Difficulty did dissuade him from it, upon a Promise to wait upon him the next Day ; but then looking upon him to be out of his Senses, I did not call upon him the next Day. From thence I declined being concerned for him, as looking upon him to be a Person out of his Senses : That is all ; I have never seen his Lordship from that time to this, except when I had the Honour to wait upon his Lordship in the Tower.

Earl Ferrers. Did you know Mr. *Johnson* ?

Goostrey. Very well.

Earl Ferrers. Was I in Friendship with Mr. *Johnson* ?

Goostrey. I have often seen Lord *Ferrers* and Mr. *Johnson* together, and have likewise had Occasion to talk of Mr. *Johnson* with my Lord : I always observed that his Lordship had the greatest Regard and Esteem for Mr. *Johnson* ; and I have, in the Course of my Business that I have done for Lord *Ferrers*, always found that Mr. *Johnson* was very exact and regular in his Accounts.

Earl Ferrers. Did you ever hear me at any time find Fault with Mr. *Johnson*, or express any Dissatisfaction at him ?

Goostrey. Never, but always the reverse.

Earl Ferrers. Do you know if Mr. *Johnson* would have consented to have been Receiver under the Act of Parliament, without consulting me ?

Goostrey. I heard Mr. *Johnson* declare, that when it was proposed to him to be Receiver, that he refused to be so, without first consulting his Lordship ; and afterwards I saw Mr. *Johnson*, and he told me that it was at his Lordship's particular Request that he consented to be a Receiver.

Mr. Solicitor General. My Lords, I must beg Leave to ask this Witness a Question or Two.

Mr. Solicitor General. Mr. *Goostrey* gave your Lordships as a Reason for his Opinion that Lord *Ferrers* was insane, that his Lordship would very frequently send Directions in the Course of his Affairs, which Mr. *Goostrey* thought fruitless, or opposite to his Interest ; in particular, he mentioned an Instance relative to his impeaching or setting aside a Family Settlement ;

Now, I should be glad to ask Mr. *Goostrey*, Whether he thinks that the Manner of Lord *Ferrers's* receiving his Advice to dissuade him from endeavouring to set aside that Settlement, proceeded from a Tenaciousness of his Opinion, or from the Insanity of his Mind ?

Goostrey. To say that it might be owing to Insanity of Mind might be going too far ; but it was from his remarkable Disposition, his obstinate and improper Behaviour, his remarkable Tenaciousness of his Opinion, which was not consistent with the good Sense I have known him Master of.

Goostrey. If I may explain what I said before, I should rather think it tended to Insanity than any thing else, as it was so inconsistent with the good Sense and Understanding that I have always met with from his Lordship.

Mr. Solicitor General. Was it from any particular Circumstance which passed between you and Lord *Ferrers*, that you thought the Manner of receiving your Advice was owing to a Tendency in Lord *Ferrers* to Insanity ?

Goostrey. My Reason is, that his Lordship had been advised by many Lawyers, that, by his long Acquiescence under that Settlement, and the many Acts he had done confirming it, that there was no Possibility of succeeding in it.

Mr. Solicitor General. Mr. *Goostrey*, You have had a great deal of Business, and been employed by many Clients, as well as Lord *Ferrers* ; have not you, in the Course of your Experience and Transactions, met with several Clients of a Temper to proceed against the Advice of Council and Friends ?

Goostrey. I never did in my small Experience meet with any Person that did so, that was possessed of the good Sense and Understanding that I have at other times found in my Lord *Ferrers*.

Mr. Solicitor General. Have you never met with Persons unsuspected of Lunacy, who acted in the Manner Lord *Ferrers* did upon that Occasion?

Goostrey. I do not know I ever had any other Client that was under such Circumstances; I do not know that I ever met with any Client that would commence a Suit after Council advised the contrary.

Mr. Solicitor General. How did the Suit end?

Goostrey. It never proceeded so far as to have an Answer; for, in the mean time, the unhappy Dispute between Lord and Lady *Ferrers* broke out, and that diverted his Thoughts from it.

Mr. Solicitor General. You mentioned an Instance of attending Lord *Ferrers*, with regard to the ill Treatment he had received from Sir *Thomas Stapylton*; upon that Occasion do you think that my Lord's insisting to have a Challenge inserted in the Papers, by way of Advertisement, proceeded from Insanity, or from mere Violence of Temper?

Goostrey. I did then think it Insanity; he being perfectly sober, I could impute it to nothing else, and from thenceforth I declined being concerned for him.

Mr. Solicitor General. Might it not be from Violence of Temper?

Goostrey. It was many Hours after the Accident happened that he came to me.

Mr. Solicitor General. Did you ever observe any thing frantick in my Lord's Behaviour?

Goostrey. Many times.

Mr. Solicitor General. Upon what Occasion?

Goostrey. Upon Occasion of his going from the Business we have been talking upon, I have often found him in Conversation lose himself intirely.

Mr. Solicitor General. Did he lose himself from Passion, or for want of Understanding?

Goostrey. He had nothing to ruffle his Temper but that particular Thing; it was from his talking to himself; I made it a Rule never to contradict him; and, during the Ten Years I was concerned for him, I never had a Word with him.

Mr. Solicitor General. You endeavoured to dissuade him from this Suit which he was going to prosecute as to the Settlement; How did he reason upon the Occasion?

Goostrey. Quite wild and inconsistent, and, upon this Occasion, in my Opinion, shewed Want of Reason.

Mr. Solicitor General. Do you recollect what he said, and how he argued? Mention the Particulars.

Goostrey. He treated it as if he had been imposed upon, and drawn in improperly to do it.

Mr. Solicitor General. Do you think that such a way of arguing shewed his Insanity and Want of Sense?

Goostrey. I thought it did, because it appeared to me to be inconsistent with the Facts.

Mr. Solicitor General. Might it not arise from a Difference in Opinion between you and him?

Goostrey. I should think not, because I always looked upon his Lordship to be a much more sensible Man.

Mr. Solicitor General. How long have you known him?

Goostrey. I said Ten Years; but I believe it may be Eleven.

Mr. Solicitor General. Do you know of any Instance in which his Friends or Family ever entertained the same Opinion of him as you do?

Goostrey. Never, as to taking out a Commission of Lunacy.

Mr. Solicitor General. As from the Conversation you had with him you think he was insane, did not you represent it to the Family?

Goostrey. Never; his Family knew it as well as I.

Mr. Solicitor General. As you was of that Opinion, did you advise a Commission of Lunacy?

Goostrey. Never.

Mr. Solicitor General. In the Time of your being concerned for him in his Affairs, did you prepare any Deed, Conveyance, or Lease for him?

Goostrey. In some Things I have.

Mr. Solicitor General. Did you ever prepare any Mortgage upon his Estate?

Goostrey. Never, that I remember.

Mr. Solicitor General. Did you ever attend the Execution of any such Deeds?

Goostrey. I was concerned in suffering a Recovery, and cutting off the Entails in the Settlement.

Mr. Solicitor General. In case of a Client's being insane, would you have suffered such Acts to be done?

Goostrey. There was no such thing happened in my Time; I never knew of any Act that my Lord did to his Prejudice in the Execution of any Deed in my Time.

Mr. Solicitor General. I ask you, if you had been desired to be a Party, or present at the Execution of any such Deed, whether you would have suffered it under such Circumstances?

Goostrey. Most certainly I should not.

Mr. Solicitor General. Was you ever a Witness to the Execution of any Deed by Lord Ferrers?

Goostrey. I have.

Mr. Solicitor General. Did you ever transact any Mortgage for him?

Goostrey. I do not recollect.

Mr. Solicitor General. Did you never get any Loan of Money for him?

Goostrey. Never. If the Gentlemen will find it out, I will not disown it.

Mr. Solicitor General. Has my Lord lately raised a considerable Sum of Money upon his Estate?

Goostrey. No, I never negotiated any such, nor was I privy to it.

Mr. Solicitor General. Was you employed to procure any Money?

Goostrey. Never to my Memory.

Mr. Solicitor General. Did you never converse with his Lordship upon the Subject?

Goostrey. Never.

Mr. Solicitor General. Did you, or did you not, in your Conscience and Opinion, upon the whole Matter, think my Lord Ferrers insane, or a proper Object to be under the Care of a Physician, or of the Court of Chancery?

Goostrey. I am in great doubt whether my Lord was so insane as that a Commission of Lunacy could be taken out; I should think a Commission of Lunacy could not be taken out against him.

Mr. Solicitor General. Why? because he was not insane?

Goostrey. I look upon it that he was insane only at particular Times, and in particular Instances.

Mr. Solicitor General. If he was insane only at times, would he not have been a proper Object of a Commission of Lunacy?

Goostrey. I cannot say at the times I have seen. If a Jury had been to inquire touching his Sanity, I am sure they would have found him a Lunatic.

Mr. Solicitor General. Mention the Times of which you speak.

Goostrey. I meant that particular Time when his Lordship came to me in the City, as I have mentioned.

My Lord Ferrers did propose to dispose of his *Northamptonshire* Estate. I do recollect there once was a Negotiation of a Loan of Ten thousand Pounds from Sir *Thomas Clarges*. I was no otherwise concerned in it, than only to see that the Deed which Lord Ferrers executed was a proper One. Mr. *Howell* of *Lincoln's Inn* was the Person concerned.

Mr. Solicitor General. You recollect the Negotiation of a Loan, and your being advised with?

Goostrey. I do recollect I was advised with, and I believe my Lord was then in *Leicestershire*.

Mr. Solicitor General. What Advice did you give?

Goostrey. The Money to be borrowed by my Lord was not to be put into his Pocket, but to pay off another Mortgage.

Mr. Solicitor General. What Advice did you give?

Goostrey. I do not recollect any particular Advice; I remember there was a Draught of a Deed; I believe it was laid before me.

Mr. Solicitor General. Did you, or did you not, advise the Execution of it?

Goostrey. I neither advised one way nor the other; I was no otherwise concerned than to see that the Draught was proper.

Mr. Solicitor General. You say my Lord asked your Advice; did you give him your Opinion with respect to the Propriety of the Deed?

Goostrey. I dare say if my Lord asked it, I did; I don't remember he did; 'tis most likely he did.

Lord Hillsborough. Why did you make it a Rule never to contradict my Lord Ferrers?

Goostrey. Because if I had contradicted him, I should have led his Lordship into a strange wild Way of Reasoning, that I had often experienced, by his reasoning with himself only.

Earl Ferrers. Was you ever concerned for any of the Family but me?

Goostrey. For Lady *Anna Eleonora Shirley* I was concerned.

Earl Ferrers. Do you know of any thing else?

Goostrey. Not that I recollect.

Lord Ravensworth. Do you know Lord Ferrers's Mother, or any of his Relations?

Goostrey. I know them all.

Lord Ravensworth. Do you mean that you know them as one that has transacted Business with them, and that you can speak your Opinion touching them?

Goostrey. Yes; I have had Business with them frequently.

Lord Ravensworth. Did you at any time, or at different times, speak to Lord *Ferrers's* Mother, or any of his Relations, to give them your Opinion of the Management of Lord *Ferrers*?

Goostrey. I never did; I should have thought it very unnecessary, because I was thoroughly satisfied that the Family knew it as well as myself.

Lord Ravensworth. My Lords, I have attended to Mr. *Goostrey's* Evidence, and am desirous of getting every Thing from him that I can; and therefore desire he will tell your Lordships, whether, during the time he did Business for Lord *Ferrers*, he ever signified to any of his Lordship's Family his own Sentiments touching his Lordship?

Goostrey. If I had been concerned for the Family, I should not have hesitated a Moment to have done it. I believe Mr. *Shirley* in particular knew that the Reason I declined being longer concerned in Lord *Ferrers's* Affairs was from an Apprehension that he was not in his Senses.

Lord Ravensworth. You declined being concerned for him upon his Behaviour about the Settlement?

Goostrey. No, upon his returning from Lord *Westmorland's*.

Lord Ravensworth. Should you have thought that alone sufficient, if, previous to that, you had not seen Marks that induced you to have a Suspicion of his Sanity, and to take the Resolution you did?

Goostrey. I don't know whether, if that had been the only Instance in which I had found my Lord behave in that odd Manner, I should then have given up his Affairs; but he had several times before acted so inconsistent, as to induce me to think it was out of my Power to be of any Service to him.

Lord Ravensworth. How long is it since he was at Lord *Westmorland's*?

Goostrey. About a Year and an half.

Lord Ravensworth. You say that you have known him between Ten and Eleven Years; during the whole time was you concerned in his Affairs?

Goostrey. There was something or other moving in his Affairs all the while; it was with the greatest Difficulty that I kept him within the Bounds I did.

Lord Ravensworth. Do you mean that, from the first time of your being concerned in his Affairs, you looked upon him in that Light, or only in that Instance?

Goostrey. Soon after I was concerned in his Affairs, I wished I had not engaged; but as I had got into them, it was difficult to recede, and for that Purpose I went on.

Lord Ravensworth. In your Opinion, and from your best Recollection, did you observe these Symptoms in Lord *Ferrers* the whole Time you attended him, the major Part of the Time, or more particularly at the latter Part?

Goostrey. Most certainly his Lordship was greatly affected with the Separation of Lady *Ferrers*; and at that Time I observed it.

Lord Ravensworth. Do you think it proceeded from Liquor?

Goostrey. I very seldom saw him in Liquor.

Lord Ravensworth. At the Times you recollect, was he sober?

Goostrey. Perfectly sober, at the Times I speak of.

Earl of Morton. Did you ever see him in such a Condition, that he was incapable of judging between a moral and an immoral Act?

Goostrey. I cannot say I ever did.

Then the Lord High Steward returned back to his Chair.

Lord Privy Seal. My Lords, I move your Lordships to adjourn to the Chamber of Parliament.

Lord High Steward. Is it your Lordships Pleasure to adjourn to the Chamber of Parliament?

Lords. Ay, ay.

Lord High Steward. This House is adjourned to the Chamber of Parliament.

The Lords, and others, returned to the Chamber of Parliament in the same Order they came down; and, after some Time, the House being there resumed, resolved to proceed further in the Trial of Lawrence Earl Ferrers, in Westminster-Hall, To-morrow, at Ten of the Clock in the Morning; and ordered that the said Lawrence Earl Ferrers should be remanded Prisoner to his Majesty's Tower of London, there to be kept in safe Custody; and that he be brought again to the Bar of this House in Westminster-Hall, To-morrow, at Ten of the Clock in the Morning.

Thursday April 17, 1760. The Second Day.

THE Lords, and others, came from the Chamber of Parliament into *Westminster-Hall*, in the same Order as on *Wednesday* last; and the Peers were there seated, and the Lord High Steward in his Chair.

Lord High Steward. My Lords, The House is resumed. Is it your Lordships Pleasure, that the Jutes may be covered?

Lords. Ay, Ay.

Then the Serjeant at Arms made Proclamation for Silence, as usual; and afterwards the following Proclamation.

Serjeant at Arms. Oyez, Oyez, Oyez! Lieutenant of the *Tower*, bring forth your Prisoner, *Lawrence Earl Ferrers*, to the Bar, pursuant to the Order of the House of Lords.

The Deputy Governor of the Tower brought the Prisoner to the Bar, in the like Form as before; and then he kneeled down.

Lord High Steward. Your Lordship may rise.

Lord High Steward. Earl *Ferrers*, your Lordship will proceed in your Defence.

Thomas Huxley sworn.

Earl Ferrers. DID you know the late Earl *Ferrers*?

Huxley. I did.

Earl Ferrers. How long did you know him?

Huxley. About Fourteen Years.

Earl Ferrers. What was the Matter with him?

Huxley. He was a Lunatic.

Earl Ferrers. Was he under Confinement?

Huxley. He was under Confinement.

Earl Ferrers. Was he a Lunatic all that Time?

Huxley. He had Intervals.

Earl Ferrers. Was he not recovered of his Understanding sometimes, so as to return to his Seat in Parliament?

Huxley. Not in that Time that I was with his Lordship.

Earl Ferrers. Was he a Lunatic home to the Time of his Death?

Huxley. He was.

Earl Ferrers. Did you know Lady *Barbara Shirley*?

Huxley. I did not.

Earl Ferrers. Or Lady *Betty Shirley*?

Huxley. I did know Lady *Betty Shirley*.

Earl Ferrers. Is she living?

Huxley. She is dead.

Earl Ferrers. How long has she been dead?

Huxley. To the best of my Knowledge about Seventeen or Eighteen Years.

Earl Ferrers. Had she any Disorders that you know of?

Huxley. As I have been told, by her Servants, she frequently appeared to be very much disordered.

Mr. Attorney General. My Lords, I should be sorry to stop the Course of the Noble Earl's Evidence, but this is Hearsay.

Earl Ferrers. Did you know any other of the Family that were disordered in their Senses?

Huxley. Nothing more than by Hearsay.

Earl Ferrers. How long have you known the present Earl *Ferrers*?

Huxley. But a very few Years.

Earl Ferrers. What Relation was the late Earl *Ferrers* to the present Lord?

Huxley. His Uncle.

Mr. Attorney General. My Lords, we will not trouble your Lordships to cross-examine this Witness.

Mrs. *Wilhelmina Deborah Cotes* sworn.

Earl Ferrers. Did you know Lady *Barbara Shirley* ?

Cotes. Perfectly well.

Earl Ferrers. What Relation was she to the present *Earl Ferrers* ?

Cotes. His Aunt.

Earl Ferrers. How long did you know Lady *Barbara* before her Death ?

Cotes. She is now living.

Earl Ferrers. Was she afflicted with any, and what, Distemper ?

Cotes. Lunacy.

Earl Ferrers. Is she confined as a Lunatic at this Time ?

Cotes. She was always looked upon as a Lunatic, and proper Care has been taken of her.

Earl Ferrers. Do you know any other of the Family that has been afflicted with Lunacy ?

Cotes. Only by Hearsay.

The Honourable and Reverend Mr. *Walter Shirley* sworn.

Earl Ferrers. What Relation are you to me ?

Shirley. Brother.

Earl Ferrers. Do you know any, and which, of the Family, that have been afflicted with Lunacy ; if you do, please to mention their Names ?

Shirley. I believe the Prisoner at the Bar has that Misfortune.

Earl Ferrers. What is your Reason for such Belief ?

Shirley. I have many Reasons for it. The First is, that I have seen him several Times talking to himself, clenching his Fists, grinning, and having several Gestures of a Madman, without any seeming Cause leading thereto—I have likewise very frequently known him extremely suspicious of Plots and Contrivances against him from his own Family ; and, when he was desired to give some Account what the Plots were that he meant, he could not make any direct Answer.—Another Reason I have for thinking him so is, his falling into violent Passion, without any adequate Cause.

Earl Ferrers. Do you believe that, at some Times, I have been hurried into violent Fits, so as not to know the Distinction between a moral and immoral Act ?

Shirley. I believe, at those Times when my Lord has been transported by this Disease of Lunacy, that he has not been able to distinguish properly between moral Good and Evil.

Earl Ferrers. Has any other of the Family, besides myself, been afflicted with Lunacy ?

Shirley. I have heard———(stopt)

Earl Ferrers. Please to inform their Lordships, whether, at the Time, I have been transported with such violent Fits, they have been the Effects of Drink, and whether they have happened when I was sober ?

Shirley. Frequently when my Lord has been sober, much more so when he has been a little inflamed with Liquor.

Earl Ferrers. Do you know of any Intention in the Family to take out a Commission of Lunacy against me ?

Shirley. I heard it talked of.

Earl Ferrers. How long ago ?

Shirley. I think I can recollect it was at the Time of his Lordship's committing the Outrage at Lord *Westmorland's* House that it was proposed to be done ; but afterwards they were afraid to go through with it ; and the Reason given was, lest, if the Court of Judicature should not be thoroughly satisfied of my Lord's Lunacy upon Inspection, that the Damage would be very great to those that should attempt it.

Earl Ferrers. Why was the Family afraid that I should appear in the Courts of Judicature to be in my Senses ?

Shirley. Because my Lord had frequently such long Intervals of Reason, that, we imagined, if he, on the Inspection, appeared reasonable, the Court would not grant the Commission against him.

Earl Ferrers. What Damage do you mean that the Family was apprehensive of, in case the Court should refuse a Commission ?

Shirley. We apprehended my Lord would sue us for *Scandalum Magnatum*.

Earl Ferrers. Was the Family apprehensive of any other Kind of Damage ?

Shirley. I know of none.

Mr. Attorney General. My Lords, I did not intend to have troubled this Gentleman ; but from what he has said, your Lordships will permit me to ask him Two or Three Questions ; I shall do it very tenderly, and with as much Propriety as I can.—In giving his Account of the Noble Lord's State of Mind, as far as I could collect it, said, That he had more Reasons than One why he deemed him to be insane.

Mr. Attorney General. Mr. Shirley, You said that the First Ground was, that his Lordship would, at Times, talk to himself, grin, and use certain Gestures, proper only to Madmen—Now, as to this First Mark of Insanity, Was this frequently the Case with his Lordship?

Shirley. Very frequently.

Mr. Attorney General, Did he, at those Times, speak loud, or use any intelligible Language to himself?

Shirley. He did not.

Mr. Attorney General. Did he, at such Times, offer to commit any Mischief, or betray any Marks of Disorder, while in that Situation?

Shirley. I do not recollect any.

Mr. Attorney General. Then, as far as I can understand you, at those Times, his Behaviour in those Intervals was perfectly innocent.

Shirley. Yes.

Mr. Attorney General. At such Times have you ever entered into Discourse with him?

Shirley. No, I do not remember.

Mr. Attorney General. Did you never ask him a single Question when you have seen him walking backwards and forwards in the Way you mention?

Shirley. I don't remember I have.

Mr. Attorney General. Did you never hear him speak at such Times to other Persons?

Shirley. Not whilst he continued in those Attitudes?

Mr. Attorney General. I don't ask you whether he conversed the Time that he was mute, but within a Quarter or Half an Hour?

Shirley. I am not certain.

Mr. Attorney General. Your next Ground for supposing him to be insane was, That he was accustomed to be transported into Passions without any adequate Cause, were those the Words?

Shirley. Without any seeming Cause.

Mr. Attorney General. Was not adequate the Expression you used?

Shirley. Yes.

Mr. Attorney General. I should be glad to know whether you deem every Man that is transported with Anger, without an adequate Cause, to be a Madman?

Shirley. I deemed it as a Sign of Madness in him ; but there were other Causes.

Mr. Attorney General. I ask you a general Question, and I do not expect a particular Answer. Whether you deem a Person that is transported with Fury without Reason, to be a Madman?

Shirley. I think a Person may be transported to Fury without an adequate Cause, that is no Madman.

Mr. Attorney General. Then please to recollect some particular Instance of this frantic Passion, and state it?

Shirley. I really cannot command my Memory so far.—I have not seen my Lord these Two Years, till the Time of this unhappy Confinement.

Mr. Attorney General. Then I am to understand you, that you cannot recollect one particular Instance.—Am I or not?

Shirley. I cannot recollect any at this Time.

Mr. Attorney General. Then as to the Suspicion of Plots without any Foundation—Will you please to enumerate any of those?

Shirley. He never himself would give any particular Account of what he suspected, only that he did suspect that the Family was in some Combination against him ; and when I have asked him, What it was that he meant ? he would never give me a direct Answer to that Question.

Mr. Attorney General. Does that Kind of Behaviour, as you describe it, denote a Man out of his Senses?

Shirley. I thought so.—I was so fully possessed of that Opinion, that I declared to other People long ago, that I thought him a Madman.

Mr. Attorney General. Please to inform their Lordships, whether the unfortunate Earl lived well or ill with his Family?

Shirley. Indeed, he did not live in Friendship with his Family.

Mr. Attorney General. Were there not Disputes on both Sides?

Shirley. Yes there were, his younger Brothers and Sisters were under the unhappy Constraint of suing for their Fortunes.

Mr. Attorney General. Then please to inform their Lordships, whether, in Truth, there was not a Combination in the Family against him?—I do not mean a Criminal one?

Shirley. I am very certain that was not what my Lord alluded to.

Mr. Attorney General. If you are certain of that, you can inform their Lordships what it was that he alluded to?

Shirley. I will give a Reason why I am certain it was not that; because it appeared to be some secret Combination: That was a Thing publicly known.

Mr. Attorney General. How did you collect that the Combination was secret?

Shirley. By my Lord's manner of expressing himself.

Mr. Attorney General. Can you recollect the Phrase or the Words he used?

Shirley. I cannot.

Mr. Attorney General. In another Part of your Examination you was asked, whether the Earl could distinguish between Good and Evil; you said he could not distinguish them properly.—Was he at that Time less able to distinguish properly between Good and Evil than any other Man that is transported into a violent Passion?

Shirley. I never saw any Man so transported.

Mr. Attorney General. Did he express himself in insensible Words, so as that you could discover the State of his Mind; and that it was that of a Madman, and not a Man in Passion?

Shirley. I considered it as Madness.

Mr. Attorney General. Can you recollect any Expression, in any Fit of Passion that my Lord was in, that might not as well have come from the Mouth of any other passionate Man?

Shirley. Indeed I cannot.

Mr. Attorney General. You recollect an old Adage, *Ira furor brevis est*: Do you believe that his was such Madness as is there poetically described?

Shirley. I believe that it really proceeded from Madness.

Mr. Attorney General. Have you ever seen him so transported upon any other Occasion than that of Anger? Have you seen any Appearance of that Kind when he was cool and calm?

Shirley. I have seen him break into Passions without any seeming Cause.

Mr. Attorney General. You said you could not remember any Instance, when the Question was asked you; can you now?

Shirley. I remember once being at a hunting Seat at *Quarendon* in *Leicestershire*, as I chose to avoid the Bottle, I went up Stairs to the Lady's; Lady *Ferrers*, at that Time, lived with him; and, without any previous Quarrel, my Lord came up Stairs into the Room; and, after standing for some Time with his Back to the Fire, he broke out into the grossest Abuse of me, insulting me, and swearing at me; and I cannot to this Day or Hour conceive any Reason for it.

Mr. Attorney General. Had you never any Dispute or Quarrel with your Brother?

Shirley. Not at that Time.

Mr. Attorney General. Might not you have had some Quarrel a few Days before?

Shirley. No.

Mr. Attorney General. Are you confident of that?

Shirley. I am confident.

Mr. Attorney General. Had he no Suspicion at that Time of your interesting yourself with respect to my Lady *Shirley*?

Shirley. There was then no Quarrel existing.

Mr. Attorney General. Had there never been a Quarrel between my Lord and my Lady?

Shirley. I think not; it was soon after his Marriage.

Richard Phillips sworn.

Earl Ferrers. How long have you known me?

Phillips. About Eighteen Years.

Earl Ferrers. Are you a Tenant, or what Relation do you stand in to me?

Phillips. I am a Tenant to your Lordship.

Earl Ferrers. Did you ever see me mad?

Phillips. Your Lordship asked me one Day, whether I ever saw you mad? I said, I hoped not.

Earl Ferrers. How long ago is that?

Phillips. It may be Nine or Ten Years.

Earl Ferrers. Upon what Occasion was it that I asked you that Question; and what did I say further?

Phillips. Your Lordship said that you was a Madman, but could not help it; and when it was off you, you was sorry for it.

Earl Ferrers. Did I, at any Time, lament the Misfortune of my Family, in respect of Mad-
ness?

Phillips. Your Lordship told me that it was in your Family.

Earl Ferrers. At the Time that you speak of, Ten or Eleven Years ago, was I upon a Visit
at any Place that might make it necessary for me to caution People against my own Madness, that
they might not be affronted at my Behaviour?

Phillips. Your Lordship came then to live in the House where I live. I thought you spoke
those Words in a Way to caution me, that I should not be surprized, in case you had such
Fits.

Earl Ferrers. Did you hear *Johnson* the Deceased say that he thought me mad?

Phillips. I have.

Earl Ferrers. When was it?

Phillips. Some time ago.

Mr. Attorney General. My Lords, That is not Evidence, to speak of what he heard *Mr. John-*
son say.

Earl Ferrers. I thought, as the Evidence of Declarations of the Deceased was admitted
against me, it would have been admitted for me.

Mr. Attorney General. My Lords, though the Declarations of the Deceased, whilst a dying
Man, and after the Stroke is given, are to be admitted as legal Evidence; yet a Deposition of
what he or any other Person said before the Accident, is clearly Hearsay Evidence, upon the same
Foundation with all other Hearsay Evidence; and, with Submission to your Lordships, ought not
to be admitted.

Mr. Attorney General. The Question is objected to by me; if my Noble Lord or his Coun-
cil insist upon it, the next Step is to hear his Council upon the Objection; then we are to
answer it, and they are to reply; and then it is for your Lordships Judgment.

Earl Ferrers. I waive the Question.

Gold Clarges, Esq; sworn.

Earl Ferrers. How long have you known me?

Clarges. From the Time of your Birth.

Earl Ferrers. Did you look upon me to be afflicted with any and what Distemper?

Clarges. Indeed I have looked upon your Lordship as a Lunatick for many Years.

Earl Ferrers. Has that Distemper increas'd of late Years, and how long?

Clarges. I think it has.

Earl Ferrers. How long?

Clarges. For these Two Years or more, ever since the unhappy Difference between my Lady
and my Lord.

Earl Ferrers. Have you seen me in violent Fits of Lunacy?

Clarges. I cannot say I have; and the Reason that I have seen few extravagant Actions of his
Lordship was this, as I look'd upon him to be disordered in his Mind, I avoided being in Company
or having any Conversation with him as much as possible.

Earl Ferrers. Have you particularly remark'd that I am of a very jealous or suspicious
Nature?

Clarges. That I have often.

Earl Ferrers. Has it been remarkably so in me more than in any other People?

Clarges. Much more so.

Earl Ferrers. Did you know any of my Relations being so afflicted?

Clarges. I remember *Henry Earl Ferrers* was.

Earl Ferrers. Had he a Commission taken out against him?

Clarges. He had.

Earl Ferrers. Was he after that restor'd to his Senses for any Time, so as to return to
Parliament?

Clarges. He was; he return'd to Parliament about a Year and an Half, I believe, or
thereabouts.

Earl Ferrers. What Relation was he to me?

Clarges. Uncle?

Earl Ferrers. Was his Return to Parliament after he had been confin'd for Lunacy?

Clarges. Yes.

Earl Ferrers. Had he, after that Year and an Half's being in Parliament, any Relapse?

Clarges. Yes.

Earl Ferrers. What became of him then?

Clarges.

Clarges. Another Commission was taken out, and he was confined to the Time of his Death?

Earl Ferrers. His being in Parliament a Year and a Half was after the first Commission issued against him?

Clarges. Yes.

Earl Ferrers. Do you know of any other of the Family being afflicted with that Distemper?

Clarges. I have heard, but do not know it?

Lord Ravensworth. Have you avoided being in Company with Lord *Ferrers*, or having any Thing to do with him for some Time past?

Clarges. I did as much as I could.

Lord Ravensworth. Please to inform their Lordships, whether you, at any Time previous to that, lived in any Degree of constant Correspondence and Intimacy with Lord *Ferrers*?

Clarges. Not much since he arrived to Manhood.

Lord Ravensworth. Whether, previous to his Arrival at Manhood, did you see a great deal of Lord *Ferrers*?

Clarges. A great deal, almost from his Cradle; for I being a Relation of his Family, was constantly with his Father and with him in the Country, and most Part of my Time I spent with them.

Lord Ravensworth. Whether in that Time, previous to his Manhood, did you observe any Thing in Lord *Ferrers* from his Behaviour, or any of his Deportment, that was particularly remarkable?

Clarges. I have.

Lord Ravensworth. You have known him during his Infancy and before his Manhood; Did you observe any thing remarkable constitutionally (if I may call it so), and singular in his Behaviour, during the Time you knew him?

Clarges. I have seen great Oddities in him beyond what I have seen in any other Man.

Lord Ravensworth. What Age was this present unfortunate Earl at the Time of the Death of his Father?

Clarges. I believe about Twenty-two or Twenty-three.

Lord Ravensworth. You say you was intimate with his Father; Had you at any Time any Conversation with the Father of the present Earl, relative to that which appeared to you to be singular in his Son?

Clarges. I cannot say I ever had.

Lord Ravensworth. Please to recollect, as far as possible, any Symptoms, be they of what Kind soever, that made you think Lord *Ferrers* so very singular in his Nature?

Clarges. I cannot specify any particular Thing.

Lord Ravensworth. You say that you have several Times seen that in my Lord, which made you think my Lord to be very singular?

Clarges. Yes.

Lord Ravensworth. Do you recollect any Thing?

Clarges. It is a great while ago; I cannot particularly specify any Thing.

Earl of Morton. This Witness has told your Lordships, that he has known the Noble Lord at the Bar from his Cradle—I desire he may be asked, if he ever observed any Defect of Understanding in the Noble Lord at the Bar?

Clarges. Not to my Knowledge; not whilst he was with me.

Earl of Morton. Upon no Occasion when you saw him?

Clarges. No, I cannot say I have.

Earl of Morton. Did you ever perceive the Noble Lord at the Bar so far deprived of his Senses, as not to know that Robbery or Murder was an Offence against the Law of God and Man?

Clarges. No, to be sure, my Lords; I cannot say that I ever did.

Peter Williams sworn.

Earl Ferrers. How long have you known me?

Williams. I have known your Lordship these Sixteen or Seventeen Years.

Earl Ferrers. Do you know of any Distemper that I am afflicted with?

Williams. Of late I have.

Earl Ferrers. What Distemper is that?

Williams. I have often observed your Lordship, when I have been in your Company, to be spitting in the Glass, and biting your Lips, and Stamping about the Room, which induced me to believe your Lordship was not in your right Senses; and further to convince me it was so, there was a Mare that your Lordship sent to me on the 17th January 1749, and remained with me to the

the first of *April* following : One Day, being *Sunday*, your Lordship came to my House, about Four or Five in the Afternoon, with Two Servants ; your Lordship arm'd with a Tuck stuck upon a Stick, the Two Servants with Guns and other offensive Weapons : Upon entering into the Yard, your Lordship jump'd off the Horse, and bid one of your Servants, you call'd *Tom*, knock the Padlock off the Stable Door.—He did so. My Wife hearing a Noise in the Yard, she came to know the Reason ; and without any Ceremony your Lordship fell'd her to the Ground with your Fist : Upon my seeing this, I went into the Yard, and ask'd your Lordship what you meant by this Behaviour ?

Earl Ferrers. My Lords, I desire to stop this Witness ; I only meant to ask him a general Question.

Earl Ferrers. Have you observed, that That which you call a Distemper in me has increased lately ?

Williams. Yes, in my Opinion I think it did : When your Lordship came to me, you, without any further Ceremony — — — (Stopp'd by Lord *Ferrers*).

Lord Ravensworth. My Lords, in Justice to myself and to your Lordships, I hope that the Witness may go on, tho' the Prisoner desires he may be stopp'd ?

Lord Mansfield. If any of your Lordships have any Questions to ask the Witness, you will do it : The Prisoner will ask him such as he thinks proper.

Earl Ferrers. Do you know of any Design in the Family to take out a Commission of Lunacy against me ?

Williams. I cannot say I do.

Earl Ferrers. Did you ever tell me that the Family wanted to prove me mad ?

Williams. I don't remember I did.

Earl Ferrers. Did you yourself consider me as a Madman ?

Williams. I considered your Lordship so at this Juncture, and many Times before.

Earl Ferrers. What Time did you mean by this Juncture ?

Williams. I mean the Juncture of his Lordships coming on Horseback with Guns and other offensive Weapons to take away the Mare.

Earl Ferrers. What Time was that ?

Williams. *Sunday* the 1st of *April* 1759 ; I mistook when I said 1749.

Earl Ferrers. Was it the general Reputation of the Country that I was mad ?

Williams. It was, I have heard several People say, where is the mad Lord that us'd to be at your House ?

Earl Ferrers. How long before this Accident, in regard to Mr. *Johnson*, was it, that my Lord came to your House arm'd in this manner ?

Williams. I believe it was about a Twelvemonth.

Earl Ferrers. You said it was 1749 before.

Williams. I meant 1759.

Elizabeth Williams sworn.

Earl Ferrers. How long have you known Lord *Ferrers* ?

Williams. A great many Years.

Earl Ferrers. Do you know of any Distemper that Lord *Ferrers* is afflicted with, and what is it ?

Williams. He never appeared like any other Gentleman.

Earl Ferrers. Wherein did he differ from other People in general ?

Williams. He always was amusing and talking to himself.—He spit in the Looking-glass, tore the Pictures, swearing he would break my Bureau open, and would break all the Glasses in my House, and would throttle me if I would not let him do it.

Earl Ferrers. Had he any particular Reason for this Conduct ?

Williams. None that I ever saw, but like a delirious Man.

Earl Ferrers. Did you keep a Public House ?

Williams. Yes.

Earl Ferrers. How near did you live to my Lord ?

Williams. My Lord was at my House, and boarded with me.

Earl Ferrers. Are you the Wife of the last Witness ?

Williams. Yes.

Earl Ferrers. Where did Lord *Ferrers* live, at the Time he behav'd in that odd manner you speak of ?

Williams. He had Lodgings at *Muswell Hill*.

Earl Ferrers. How far did you live from him.

Williams.

Williams. Two Miles to the best of my Knowledge, he frequently us'd to come, I have made him Coffee and sent up a Dish, he always drank it out of the Spout, which surprized me, that I thought him delirious.

Earl Ferrers. How long ago is that?

Williams. I believe it is about Twelve Months ago to the best of my Knowledge.

Earl Ferrers. Have you often seen Lord *Ferrers* behave in that Manner?

Williams. I never saw him behave like any other Gentleman in my Life.

Earl Ferrers. Was the Coffee hot when he drank it out of the Spout?

Williams. Hot.—He always went about the Town like a Madman, throttled me and threw me down in the Yard, one Day when he took the Horse away.

Earl Ferrers. Did you think Lord *Ferrers* a Madman?

Williams. I know he was by all his Appearance.

Earl Ferrers. Was he generally thought so by other People?

Williams. By all the whole Town.

A Lord. When he threatened to break open your Bureau, and to use you ill if you did not let him do it, was he in Liquor?

Williams. Sober as I am now.

A Lord. Did you ever, upon any Occasion when he committed these Outrages, observe that he had been drinking?

Williams. Never; he never drank in a Morning but a little Tea or Coffee, or some Broth.

Earl Ferrers. Have you ever seen me commit any other Acts of Outrage besides those you have mentioned?

Williams. A great many more that are worse.

Earl Ferrers. Name them?

Williams. Swearing, cursing, and damning us; and wishing us all at Hell, and himself at Hell; and threatened to break the Glasses; and talk'd to himself for Hours together in Bed.

Earl Ferrers. Was he drunk or sober at those Times?

Williams. Very rarely; but he seem'd more to be disturb'd in his Mind.

Earl Ferrers. Mention the Circumstance about my coming for the Mare?

Williams. My Lord came for the Mare, it was at Church Time, and brought his Servants, and a Hammer in his Hand, and Guns, with a Tuck in his Hand, and broke the Stable Door open by Violence of Arms, and knock'd me down with his Arm, and run the Tuck into my Husband, fetch'd the Blood, I was obliged to have a Surgeon to attend him; and took the Mare away by Force of Arms, and if any-body came to hinder him, he said he would blow their Brains out. He always had Pistols, nobody knew of. I never saw any Gentleman that came to my House before, that had those Things about them. I us'd to like to take them out of the Bed-chamber, but was afraid to touch them, for fear of what he should do to me himself, by seeing his Mind so disturb'd.

Earl Ferrers. Were those Outrages committed when he was drunk or sober?

Williams. Sober for the general; and when he took the Mare away, as sober as he is now.

Earl of Hardwicke. Inform their Lordships, whether, before my Lord came in this Manner to get the Mare out of the Stable, he had before sent any Servant to demand the Mare, and had been refus'd?

Williams. Yes he had, the Boy was gone to Church. We always kept it under Lock, because there was more of his Lordship's Horses; and nobody was to go into the Stable but his Lordship's Ostler.

The Honourable Mr. *Robert Shirley* sworn.

Earl Ferrers. What Relation are you to me?

Shirley. Brother.

Earl Ferrers. When was the last Time that you and I had any Conversation together?

Shirley. Almost Four Years ago, between Three and Four Years.

Earl Ferrers. At that Time in what Light did you look upon me?

Shirley. Rather turn'd in your Head.

Earl Ferrers. Was there any Disorder in the Family? and what was that?

Shirley. Lord *Henry Ferrers* had Madness.

Earl Ferrers. Do you know Lady *Barbara Shirley*?

Shirley. I do not.

Earl Ferrers. Do you know of your own Knowledge any other besides Earl *Henry* that was a Lunatic?

Shirley. No.

Earl Ferrers. Have you any Reason to believe that I have been afflicted with the like Disorder ?

Shirley. I have.

Earl Ferrers. Please to Name your Reasons ?

Shirley. My Reasons are, that when I liv'd at *Burton-upon-Trent*, your Lordship came to my House with conceal'd Pistols in your Pockets, Pockets that were made on Purpose for that Use I apprehend ; and that you likewise had a Snick-or-snee Knife, as it is call'd ; and I apprehended myself and all the Family in great Danger at that Time ; and I was obliged to shut the Doors against you ; upon that I wrote to my Brother Captain *Washington Shirley*, that I apprehended you to be a Lunatic, and would join with him in taking out a Commission against you.

Earl Ferrers. Have you any other Reasons to believe me a Lunatic than my carrying Pistols ?

Shirley. Yes.

Earl Ferrers. Name all your Reasons ?

Shirley. Your Lordship has frequently ask'd my Opinion in relation to your Affairs, which I have told you to the best of my Capacity ; but you was always so unsteady and jealous of me and your Friends, when we were endeavouring to serve you, that you would never venture to trust us in any Thing in which we could be of Service to you. I have likewise seen you in several strange Postures, walking about with great Confusion of Mind, and very often was absent for a considerable Time, when I have been asking you a Question I could hardly get an Answer from you.

Earl Ferrers. Was it usual for me to go arm'd ?

Shirley. I believe for Four Years past, or very near, you have hardly ever gone without conceal'd Pistols about you.

Earl Ferrers. Did I use to go arm'd formerly when you knew me ?

Shirley. I never knew that his Lordship went arm'd, till he came to my House at *Burton-upon-Trent*, which was the last Time I saw him.

Earl Ferrers. Do you know any Thing more ?

Shirley. I have further to say, that my Father made a Settlement in 1741, which you subjected yourself to and acquiesced under for near Twenty Years ; and then prefer'd a Bill, in order to set that Settlement aside ; and, contrary to the Opinion of your Solicitor and Council, you still would insist upon doing it, and obliged me to put in an Answer for myself and my Son.

Earl Ferrers. Do you know of my being subject to Fits of violent Rage ?

Shirley. I cannot say but I have.

Earl Ferrers. Did you ever see me so outrageous as not to know the Difference between Good and Evil ?

Shirley. I really cannot particularize any Thing, 'tis so long ago ; but upon Occasions I have seen you extremely passionate and warm, and so much so, that I believe you did not know what you did sometimes.

Earl Ferrers. Do you think that these violent Passions you speak of arose from constitutional Defects ?

Shirley. I really believe so.

Earl Ferrers. If you have any Thing more to offer, mention it yourself ; I have no more Questions to ask you.

Shirley. I have nothing more to offer.

Lord Cadogan. How long was it before this Accident, that you wrote to Captain *Washington Shirley* about taking out a Commission of Lunacy against my Lord ?

Shirley. It is upwards of Two Years ago since I wrote to him.

Doctor *John Monroe* sworn.

Earl Ferrers. Did you know the late Earl *Ferrers* ?

Monroe. I did.

Earl Ferrers. Did you know him in any and what Distemper ?

Monroe. I attended him as a Physician when he was under the unhappy Influence of Lunacy.

Earl Ferrers. Have you heard all the Evidence that has been given in this Cause, on the Charge against Earl *Ferrers*, on both Sides ?

Monroe. I have.

Earl Ferrers. You are desired to mention what are the usual Symptoms of Lunacy ?

Monroe. Uncommon Fury, not caused by Liquor, but very frequently raised by it ; many others there are which tend to Violence against other Persons or against themselves : I do not know a stronger,

stronger, a more constant, or a more unerring Symptom of Lunacy than Jealousy, or Suspicion without Cause or Grounds : There are many others too long to enumerate.

Earl Ferrers. Has the carrying of Arms been generally a Circumstance of Lunacy ?

Monroe. I have known it to be so, but not generally.

Earl Ferrers. Please to inform their Lordships whether any and which of the Circumstances which have been proved by the Witnesses are Symptoms of Lunacy ?

Mr. Attorney General. My Lords, if the Noble Lord means to insist upon that Question, I object to it.

Lord High Steward. Lord *Ferrers*, do you desire your Council to be heard upon that ?

Earl Ferrers. I do.

Earl of Hardwicke. My Lords, this Question is too general, tending to ask the Doctor's Opinion upon the Result of the Evidence, and is very rightly objected to by the Council for the Crown : If the Noble Lord at the Bar will divide the Question, and ask whether this or that particular Fact is a Symptom of Lunacy, I dare say they will not object to it ?

Mr. Attorney General. My Lords, I shall not.

Earl Ferrers. My Lords, I submit to have it go on in the Way recommended by Lord *Hardwicke*.

Earl Ferrers. Please to inform their Lordships, whether quarrelling with Friends without Cause is a Symptom of Lunacy ?

Monroe. Very frequently one.

Earl Ferrers. Whether being naturally suspicious is a Symptom of Lunacy ?

Monroe. Yes it is without Cause a constant one.

Earl Ferrers. Whether going arm'd where there is no Danger is a Symptom of Lunacy ?

Monroe. That must be according to the Circumstances.

Earl Ferrers. Whether going generally arm'd where there is no apparent Danger is a Symptom of Lunacy ?

Monroe. I should think it was.

Earl Ferrers. Whether spitting in the Looking-glass, clenching the Fist, and making Mouths is a Symptom of Lunacy ?

Monroe. I have frequently seen such in Lunatic Persons.

Earl Ferrers. Whether walking in the Room, talking to himself, and making odd Gestures, are Symptoms of Lunacy ?

Monroe. Very common ones.

Earl Ferrers. Is quarrelling without Cause a Symptom of Lunacy ?

Monroe. It is a very frequent Attendant upon such unhappy Complaints, and they are generally malicious.

Earl Ferrers. Whether drinking Coffee hot out of the Spout of the Pot is a Symptom of Lunacy ?

Monroe. I should think it one in the present Case ; it is not a general one.

Earl Ferrers. Whether Lunatics, when they are angered with or without Cause, know what they are doing ?

Monroe. Sometimes, as well as I do now.

Earl Ferrers. Is it common to have such a Disorder in Families in the Blood ?

Monroe. Unfortunately too common ?

Earl Ferrers. Whether Lunatics in their Intervals are conscious of their being Lunatics ?

Monroe. They are conscious of it ; many, both in and out of their Intervals ; very few that are not.

Earl Ferrers. Whether Lunatics are apt to be seized with Fits of Rage on a sudden ?

Monroe. Very often.

Earl Ferrers. Without any apparent Cause ?

Monroe. Without any apparent Cause.

Earl Ferrers. Is there any other Way of discovering whether a Man is a Lunatic or not, but by the Irregularity of his Behaviour or his Pulse ?

Monroe. By the Irregularity of his Behaviour ; I know of no other Method ; the Pulse discovers nothing in general.

A Lord. Please to inform their Lordships, whether a Person under an immediate Visitation from God of Madness, has not commonly a Fever ?

Monroe. Seldom or never, unless it may be at the first Attack of the Distemper, or in some very violent Fit.

Roger Griffith sworn.

Earl Ferrers. How long have you known me?

Griffith. About Twelve Months.

Earl Ferrers. Did you know me when I lived at *Muswell Hill*?

Griffith. Yes, very well.

Earl Ferrers. When was that?

Griffith. It was about Twelve Months ago.

Earl Ferrers. At that Time was I generally reputed a Madman, or a Man in his Senses?

Griffith. Generally reputed a Lunatic; some said, crack'd in his Head.

Earl Ferrers. My Lords, I desire Leave to call Mr. *Goostrey*, to ask him a Question I forgot Yesterday.

Mr. *Goostrey* sworn again.

Earl Ferrers. Have you observ'd me remarkably jealous and suspicious, and for what?

Goostrey. Very remarkably so all the while I had the Honour to be concerned for him, and much more than any other Person. In the course of Time that I was concern'd for his Lordship, he has been at different Times——

Lord High Steward. You are not to go into a Detail.

Earl Ferrers. My Lords, I have done with my Evidence; but it is impossible for me to sum up, and what I have to offer to your Lordships I have reduced into Writing, and desire the Clerk may read it.

Lord High Steward. Is it of your Lordship's own Writing?

Earl Ferrers. My Lords, the Attorney got it copied.

Clerk reads,

My Lords,

IT is my Misfortune to be accused of a Crime of the most horrid Nature.

My Defence is, in *general*, that I am *Not Guilty*: The Fact of *Homicide* is proved against me by Witnesses, who, for ought I can say to the contrary, speak truly.

But if I know myself at this Time, I can truly affirm, I was ever incapable of it, *knowingly*; If I have done and said what has been alledg'd, *I must* have been depriv'd of my Senses.

I have been driven to the miserable Necessity of proving my own Want of Understanding; and am told, the Law will not allow me the Assistance of Council in this Case, in which, of all others, I should think it most wanted.

The more I stand in need of Assistance, the greater Reason I have to hope for it from your Lordships.

Witnesses have been call'd to prove my Insanity;—To prove an unhappy Disorder of Mind, and which I am griev'd to be under the Necessity of exposing.

If they have not directly prov'd me so Insane as not to know the Difference between a *moral* and an *immoral* Action, they have at least prov'd that I was *liable* to be driven and hurried into *that unhappy Condition* upon very slight Occasions.

Your Lordships will consider whether my *Passion*, *Rage*, *Madness* (or whatever it may be called), was the Effect of a weak or distemper'd Mind, or whether it arose from my own Wick- edness, or Inattention to my Duty.

If I could have controul'd my Rage, I am answerable for the Consequences of it.—But *if I could not*, and if it was the mere Effect of a distemper'd Brain, I am *not* answerable for the Consequences.

My Lords, I mention these Things as *Hints*—I need not, indeed I *cannot*, enlarge upon this Subject: Your Lordships will consider all Circumstances, and I am sure you will do me Justice.

If it be but a Matter of *Doubt*, your Lordships will run the Hazard of doing me *Injustice* if you find me Guilty.

My Lords, If my Insanity had been of *my own seeking*, as the sudden Effect of *Drunkenness*, I should be *without Excuse*. But it is proved, by the Witnesses for the Crown, *that I was not in Liquor*.

Mr. *Kirkland*, who drank and conversed with me, in order to betray me, (Mr. Attorney may commend his *Caution*, but *not his Honesty*) represents me as the most irrational of all Madmen, at the Time of my doing a Deed, which I reflect upon with the utmost Abhorrence.

The Council for the Crown will put your Lordships in Mind of every Circumstance against me, I must require of your Lordships' Justice, to recollect every Circumstance on the other Side

My Life is in your Hands, and I have every Thing to hope, as my Conscience does not condemn me of the Crime I stand accused of; for I had no preconceived Malice; and was hurried into the Perpetration of this fatal Deed, by the *Fury* of a disordered Imagination.

To *think* of this, my Lords, is an Affliction, which can be aggravated only by the Necessity of making it my Defence.

May God Almighty direct your Judgments, and correct my own.

Earl Ferrers. My Lords, I will mention One Circumstance, which I did speak of Yesterday; it was said, that I knew of a Lease *Johnson* had, but it has never been proved; therefore, I imagine, that what I asserted, that I did not know of it, must be admitted as Truth.

Lord High Steward. Earl *Ferrers*, Hath your Lordship any thing further to offer?

Earl Ferrers. No.

Mr. Solicitor General.

My Lords,

IT is now my Duty, to lay before your Lordships some Observations, upon the Evidence offered both for the King and the Prisoner, in Reply to the Defence made against the Charge.

The Fact of killing Mr. *Johnson* (the Person named in the Indictment), is admitted as well as proved. The Noble Lord at the Bar only denies the Consequence; that the Fact is Murder. For, he tells your Lordships, that, upon considering all the Circumstances, he is satisfied, that he was incapable, knowingly, of doing what he did; and therefore insists upon an Incapacity and Insanity of Mind in his Defence.

My Lords, It is certainly true, that the Fact is not Murder without Malice; so natural Justice says; so the Law says, on which the Indictment is framed: And Malice must depend, in every Case, upon the Will and Understanding of the Party. If the Defence is founded in Truth; as the Noble Prisoner at the Bar has seen the Anxiety of your Lordships, to give it all due Weight, through the whole Course of his Trial; so now, in the Conclusion, he will receive from you, as his Judges, the full Benefit of that Defence in his Acquittal. If it is not founded in Truth, I am persuaded, that no other Consideration, respecting the Rank and Quality of the Noble Prisoner, and his Relation to your Lordships, will turn your Attention from the Evidence, nor make the least Impression upon the Firmness of your Justice.

Before I observe upon the Evidence, I will presume, with your Lordships' Indulgence, to state to you the Legal Notion of that Defence, which has been urged and attempted in Proof.

My Lords, The Law of *England*, which is wisely adapted to punish Crimes with Severity, for the Protection of Mankind, and for the Honour of Government, provides, at the same Time, with the greatest Equity, for the Imbecillity and Imperfections of human Nature. Therefore, my Lord Chief Justice *Hale* (the Weight and Authority of whose Writings are known to your Lordships and to the whole Kingdom), explains the Law upon this Subject, at large, with his usual Clearness and Accuracy. It is, in his First Volume of the History of the Pleas of the Crown, (fol. 30), where he traces all the Distinctions, which the Nature of this Question admits, as it concerns the Trial of Criminals for Capital Offences. I will collect the Substance of what he says, and submit it to your Lordships, as founded not only in Law and Practice, but in the most unerring Rules of Reason and Justice.

My Lords, He begins with observing, that "There is 1st, A Partial Insanity of Mind, and "there is 2dly, A Total Insanity. 1st. Partial Insanity is, either in respect to Things, when "they, who are competent as to some Matters, are not so as to others; or else it is Partial, in "respect to the Degree. This is the Condition of many, especially of Melancholy Persons. As to "such, a Partial Insanity will not excuse them; for (he says) that Persons who are Felons of "themselves, and other Felons, are under a Degree of it, when they offend." It is difficult to draw the Line, which divides Perfect from Partial Insanity; and he refers it to the Discretion of the Judge and Jury, who must duly weigh and consider the Whole; "Left on one Side, there be a Kind of Inhumanity towards the Defects of Human Nature; or, on the other Side, too much Indulgence "given to great Crimes." Then, my Lords, he speaks of the general Rule, which he would chuse to lay down, as the best Measure of his own Judgment; and it is, "That a Person, who has "ordinarily as great a Share of Understanding, as a Child of Fourteen Years of Age, is such a "Person, as may be guilty of Treason or Felony. 2dly, As to Total Insanity or Alienation of

“ Mind, which is perfect Madness, this (Lord *Hale* agrees) will plainly excuse from the Guilt of “ Felony and Treason.”

But he distinguishes under the Head of Total Insanity, between “ that Species, which is fixed “ and permanent ; and Lunacy, which comes by Periods or Fits.”

Of this latter Kind he expresses himself thus : “ Crimes committed by Lunatics, in such their “ Distempers, are under the same Judgment, as those committed by Men partially insane. “ The Person, who is absolutely mad for a Day, killing a Man in that Distemper, is equally not “ Guilty, as if he were mad without Intermision. But such Persons, as have their lucid Intervals, “ have usually, in those Intervals at least, a competent Use of Reason ; and Crimes committed “ by them are of the same Nature, and punishable in the same Manner, as if they had no such “ Defect.”

My Lords, Afterwards, he treats of that Insanity, which arises from Drunkenness, and lays it down, that “ By the Law of *England*, such a Person shall have no Privilege from this voluntary “ contracted Madness, but shall have the same Judgment, as if he were in his right Senses ;” (unless it be occasioned by Medicine unskilfully administered, or Poison accidentally taken). Indeed, if, by such Practices, an habitual fixed Frenzy be caused, it puts the Man in the like Condition, with respect to Crimes, as if that Frenzy were at first involuntarily contracted.

My Lords, The Result of the whole Reasoning of this wise Judge and great Lawyer (so far as it is immediately relative to the present Purpose) stands thus. If there be a total permanent Want of Reason, it will acquit the Prisoner. If there be a total temporary Want of it, when the Offence was committed, it will acquit the Prisoner. But if there be only a partial Degree of Insanity, mixed with a partial Degree of Reason ; not a full and complete Use of Reason, but (as Lord *Hale* carefully and emphatically expresses himself) a competent Use of it, sufficient to have restrained those Passions, which produced the Crime ; if there be Thought and Design ; a Faculty to distinguish the Nature of Actions ; to discern the Difference between moral Good and Evil ; then, upon the Fact of the Offence proved, the Judgment of the Law must take place.

My Lords, The Question therefore must be asked ; Is the Noble Prisoner at the Bar to be acquitted from the Guilt of Murder, on account of Insanity ? It is not pretended to be a constant general Insanity. Was he under the Power of it, at the Time of the Offence committed ? Could he, did he, at that Time, distinguish between Good and Evil ?

The same Evidence, which establishes the Fact, proves, at the same Time, the Capacity and Intention of the Noble Prisoner. Did he weigh the Motives ? Did he proceed with Deliberation ? Did he know the Consequences ?

My Lords, He weighed the Motives. The Two Witnesses, who speak most strongly and materially to this Part of the Cause, as well as to every other, are, *Sarah Johnson* the Daughter of the Deceased, and Mr. *Kirkland* the Surgeon.

The Circumstances proved by their Evidence shew, that the Malice conceived, on this unfortunate Occasion, was steady, cool, and premeditated. Mr. *Johnson* had acted, for many Years, as Steward to collect the Rents of such Lands as Lord *Ferrers* had in Possession ; and he was himself Tenant of One of the Farms. At the Time of passing the Act of Parliament, Two Years ago, relative to the Noble Lord's Estate and Affairs, Mr. *Johnson* stood so well in his Opinion and Favour, as to be recommended by his Lordship to be Receiver, for the various Trusts and Purposes in the Act. Something passed on that Occasion, which disgusted the Noble Lord, and made him jealous, that *Johnson* had taken part against him. From that Moment, he entertained Resentment and Hatred in his Heart. More lately still, he took Offence against *Johnson*, as to a Contract for the Sale of Coals upon Part of the Estate, in which his Lordship thought (as he seems to be knowing and attentive in his private Business) that there had been some Collusion, to impose upon him.

My Lords, The first Instance of his Resentment appeared to you from the Evidence of *Sarah Johnson*, the Daughter : That, in the *November* preceding the killing of her Father, Lord *Ferrers*, accompanied by Mr. *Clifford*, delivered a Paper to *Johnson*, the Body of which was voluntarily admitted by my Lord to be of his own Hand-writing. It was a Notice to *Johnson* to quit the Farm which he rented, and *Clifford* was the intended Successor. This Step proceeded from Resentment, and it was so explained afterwards by himself to *Kirkland*, when he said, that he had long wanted to drive *Johnson* out of the Farm, and make him return to *Cheshire*, from whence he came. My Lords, It is very plain, that the Noble Lord took his Resolution—

Earl Ferrers. Mr. Solicitor, you mistake ; the Notice was given a Twelvemonth ago last *November* ; it was not given in the last *November*.

Mr. Solicitor General. My Lords, I am extremely obliged to the Noble Lord at the Bar, for setting me right in the least Circumstance; and hope that he will always do it, whenever I mistake. I mean to be as exact as I am able. My Lords, The View with which I mention the Notice to turn *Johnson* out of the Farm, is this. Lord *Ferrers*, in order to shew the Improbability of his conceiving Malice against *Johnson*, has relied upon it, that he was always known to entertain the greatest Regard and Friendship for that unfortunate Man. My Lords, I admit the Friendship and Kindness down to the Time of passing the Act of Parliament: And I said, that his Lordship had recommended *Johnson* to be Receiver. But soon after the passing of that Act, he certainly changed his Opinion. It is sufficient, therefore, that the Notice to quit the Farm (which was the first strong Mark of his Resentment proved in Evidence) was given, subsequent to the Proceedings of the Legislature. Whether the Notice was given last *November*, or in the Year preceding, the Observation, as applied to this Purpose, remains in its full Force.

My Lords, I was saying, that, it was plain, his Lordship gradually wrought himself up to a Resolution of destroying Mr. *Johnson*. The Daughter, *Sarah Johnson*, proves, that his Lordship declared, in her Hearing, when she went to *Stanton*, in the Evening of the 18th of *January*, to see her dying Father, that he designed it. He declared to *Kirkland*, that since the Year 1753, *Johnson* had been a Villain; that he had done Things not right; that his Lordship fully intended to shoot *Johnson* dead, as a Villain who deserved Death; and that it was premeditated. He complained farther to *Kirkland*, that *Johnson* had colluded with his Enemies to obtain the Act of Parliament; but added, that the chief Reason, which had just then provoked him, was, the Contract with Mr. *Curzon*, in relation to the Profits of his Coals. He upbraided *Johnson* that Evening, upon his Death-bed, in like Terms of Reproach. And though the Witness said, that his Lordship might then be raised with Liquor in some Degree, yet he did not lose his Understanding; and the Manner, in which he spoke, was temperate.

My Lords, Can there be a clearer Proof, that the Noble Prisoner weighed the Motives of this Action? Neither these, nor any other Motives, will justify it; but the Evidence shews, that his Conduct was not absurd, but rational and consistent. The same Crime has been committed in all Ages, upon Grounds as slight, by Men who never thought of setting up the Defence of Lunacy. Motives like those suggested, might easily and naturally work upon one, the Course of whose Life (as explained by the Witnesses), betrays so many Marks of ungoverned Passion; though the same Motives would not have inflamed Tempers, less susceptible of Violence than his own.

My Lords, He proceeded with equal Deliberation to commit the Fact. The Attention, Thought, and Care, with which he acted, are remarkable.

It appears, that he had appointed a particular Day for Mr. *Johnson* to wait upon him. *Friday* the 18th of *January* was fixed, by the Order of Lord *Ferrers*; and the Appointment was made some Days beforehand. *Elizabeth Burgeland* has told your Lordships, that Mr. *Johnson* was expected at *Stanton* in the Forenoon of that very Day. *Sarah Johnson* tells your Lordships, that she heard her Father declare, on the *Sunday* preceding, that he was to attend Lord *Ferrers* on *Friday*. *Kirkland* proves, that the Noble Prisoner himself said to the Witness at *Stanton*, that, upon *Johnson's* coming into the Room, they had a Conversation together, after the Door was locked, by way of warm and violent Expostulation on the Part of my Lord; and that he tendered a Paper to be signed by *Johnson*, acknowledging his Villainy. *Elizabeth Saxon* overheard Part of what was said. That Paper must have been the Result of Thought and Consideration, probably prepared before *Johnson* came. Your Lordships observed, with some Emotion, the Account given of the Impatience, with which Confessions of Villainy were expected, and almost extorted afterwards, from the dying Man.

My Lords, when the Wound was given, the Noble Lord at the Bar told Mr. *Kirkland*, that he was cool at the Time he did it: That he took Aim; but not having killed *Johnson*, he intended to shoot again: That, however, Nature got the better of Resolution, when he observed the Pain under which *Johnson* languished. It is proved, that in the Evening, whilst *Kirkland* and Lord *Ferrers* sat together in the Still Room, his Lordship declared, that he did not intend to shoot *Johnson* dead, but only to make him smart in the Hip and Side. This was taken Notice of by the Noble Prisoner, as a Variation in *Kirkland's* Account of the Intention with which *Johnson* was shot, inconsistent with what the Witness had said before. But, the Variation probably arose from my Lord's own Manner of discoursing during that Evening. The Observation, therefore, cannot affect the Credit of the Witness; and the Intention declared, of killing or wounding, will not vary the Construction of Law upon the Fact committed. Your Lordships heard too, what Lord *Ferrers* said in the Hearing of *Sarah Johnson*; that he had tried the Pistol through a Deal Board, and knew it to be good. He said the same Thing to *Kirkland*; expressing some Surprise (as the Witness understood it), that the Ball did not go through *Johnson*.

All these Circumstances shew, the Deliberation with which the Noble Prisoner proceeded.

My

My Lords, let me now ask, when the Motives had been weighed, and the Fact deliberately committed, Did he know the Consequences?

His first Thought was, instantly to send for the Assistance of a Surgeon, and to enquire, whether *Johnson* would live or die. The Daughter came early in the Afternoon. He said to her, that he was afraid of being prosecuted; adding, that if she would not prosecute him, he would maintain her, and her Family. Does not this Circumstance prove, that he readily understood the Consequences? that he knew himself bound to answer to the Law for his Offence? When *Kirkland* came, his Lordship tempted him with fair Promises, to prevent the Neighbours from seizing him. He told *Kirkland*, that a large Bill was owing to him; and my Lord said, that he would pay Part of it then, and the rest in a reasonable Time. In talking over the Circumstances (which he recollected clearly and calmly), he added, that he could justify himself; though, upon his Surrender to your Lordships, he was doubtful whether his Justification would be approved. From what Consciousness in his own Mind did that Doubt arise? He expressed his Fears, during the whole Evening, that he should be seized. He was quieted, in this Respect, only by the Conversation of *Kirkland*, and the Manner of his Behaviour. Upon *Kirkland's* coming to *Stanton*, my Lord enquired much into the Probability of *Johnson's* dying. In the first Visit which my Lord and the Surgeon made to *Johnson* that Evening, his Lordship gave material Instructions; asked sensible and pertinent Questions, particularly as to the Place of the Wound, and the Effect of the Ball lying in the Abdomen. The Witness thought that Mr. *Johnson* would die, from the very Moment of his first Visit; but he told your Lordships, that he judged it right to deceive Lord *Ferrers*. The noble Prisoner was pleased to say, that the Caution of the Witness might be commended, but not his Honesty. My Lords, the Caution proceeded from Honesty: He was unwilling that his Lordship should escape. This was due to Civil Government, to Justice, and Humanity. To prevent Lord *Ferrers* from taking Alarm, and attempting to escape, *Kirkland* flattered him with Hopes of *Johnson's* Recovery, during the whole Evening; and his Lordship was told, that if the People should endeavour to seize him, the Witness would persuade them, that there was no Occasion for it. About Eleven o'Clock at Night, Mr. *Kirkland* went up again to *Johnson*: He still continued to amuse Lord *Ferrers* with Hopes of *Johnson's* Recovery; and, at taking Leave, when *Kirkland* gave him Assurances on that Subject, my Lord said, *when he might go to Bed in Safety*; and retired to his own Chamber. What do all these Circumstances speak, but a correct Knowledge of the Fact, and Apprehension of all its Consequences, either as they concerned *Johnson*, or himself? When he was seized, did he shew Marks of Insanity? He resisted, for some Time; but appeared, in every Respect, in the Judgment of the Witnesses, to be of sound Mind. Afterwards, when he was led into *Kinsey's* House, his Behaviour was decent; and he made Answer to a worthy Clergyman in the Commission of the Peace, who visited and admonished him, that he knew his Duty as well any Justice of the Peace.

This is the Substance of the Evidence, which has been offered for the King; and it not only proves the Fact, but proves it to be Murder.

My Lords, What is the Evidence produced by the Noble Lord to weaken the Force of it? In the First Place, there is none, which applies to the Time of committing the Fact. His Sobriety is admitted, and Drunkenness would not excuse; and even supposing it had appeared to your Lordships, that the noble Prisoner was sometimes, by Fits and Starts, under a degree of Lunacy or temporary Insanity; yet, if he was of sound Mind at that Hour, he is a Person within all the Rules and Distinctions, which Lord *Hale* explains. But, my Lords, in the next Place, I must observe, that no general Evidence has been offered, which proves his Lunacy or Insanity at any time; for his own Witnesses fail in their Endeavours to shew it. This appears from their manner of expressing themselves in their original Examination; but still more in the Answers, which they gave to the Questions asked upon the Cross-Examination.

The Two first Witnesses called were, Mr. *Bennefold*, and Mr. *Goostrey*. They describe the Insanity of the Noble Lord at the Bar to consist of Flights. They say, that he would swear; would talk to himself; that he would use strange Gestures; that he had Friends, and suspected them; that he was of a positive Temper, and difficult to be dissuaded from any Opinion or Resolution which he had once formed. But Mr. *Bennefold*, upon the Cross-Examination, admitted, that he never knew of any Act of Wildness done by his Lordship, nor of any Physician sent for, to take Care of him in that respect. He said, upon the whole, that he thought Lord *Ferrers* had better Parts and Understanding than ordinary Men. Mr. *Goostrey* told your Lordships, upon the Cross-Examination, that he had done Business several Years for Lord *Ferrers*; that he had advised and prepared Deeds for his Lordship to execute; that he had assisted in suffering a Recovery to bar the Entail of the Estate; and admitted his Sense and Capacity in general, but inferred Insanity from Positiveness of Temper and Opinion. However, in Answer to a Question proposed by one of your Lordships, he said, that he thought Lord *Ferrers* capable of distinguishing between moral and immoral Actions:

Several other Witnesses have been called To-day. I will first mention Mr. *Clargès*. He describes similar Circumstances with Mr. *Bennefold* and Mr. *Goostrey*, from which he collects the Infanity of the Noble Prisoner. He said, that he had observed great Oddities in my Lord; during his Minority, but no Defect of Understanding. He could not specify particular Instances; and added, that his Lordship was jealous and suspicious: But the Witness never saw him in such a Situation, as not to be capable of distinguishing between Good and Evil, and not to know, that Murder was a great Crime.

My Lords, This Account of the State of the Noble Prisoner's Mind is consistent, not only with a considerable Degree of Understanding, but with the highest Degree of it. If the Law were to receive such Excuses, it would put a Sword into the Hand of every savage and licentious Man, to disturb private Life, and public Order.

My Lords, There was another Witness of a different and a much lower Sort than those whom I have named; I mean *Elizabeth Williams*. She was the only Person who said, that the Noble Earl was always mad. When she came to explain the Instances from which she drew that Conclusion, the principal one insisted upon was ridiculous; the Anger which he shewed against a Servant, who had neglected to take Care of a favourite Mare, intrusted to his Management. This was a Vivacity so natural, that, if it be deemed a Symptom of Madness, few are free from it; and I doubt the Inference will go far in Cases of common Life.

The Two next Witnesses, whom I will mention, are the Brothers of the Noble Earl. My Lords, I own I felt for them. It gave me Pain to see them, in a Cause which touches a Brother's Life, brought to the Bar as Witnesses, to mitigate the Consequences of One Misfortune, by endeavouring to prove another of the most tender and affecting Nature; and if they had spoke stronger to Matters of Conjecture, Opinion, and Belief, for my Part, I could easily have excused them.

My Lords, They both spoke with Caution, and as Men of Honour; but One of them was the only Witness of Weight, who expressed a Belief, that, at particular Times, the Noble Lord might not be able to distinguish between moral Good and Evil. I did not observe, that he spoke of any Instance within his own Recollection. The Circumstances, from which these Gentlemen inferred Infanity, were for the most part of the same Kind with those which came from the Mouths of the other Witnesses. They did not carry the Marks of it in the least Degree beyond that Evidence. And Mr. *Walter Shirley* admitted, That the Noble Lord at the Bar had long Intervals of Reason. I endeavour to repeat the Expression, and I think it was so. Mr. *Robert Shirley* told your Lordships, That he had not seen the Noble Prisoner for Four Years past; that the last Time of seeing Lord *Ferrers* was, at *Burton upon Trent*. He mentioned the carrying of Pistols, and Arms, and a large Case Knife, at that time. I understood him to say, that the Noble Lord generally did so; the Witness had seen it only once; but from that Circumstance he argued Infanity. Your Lordships will judge, whether this Practice might not be owing to Jealousy and Violence of Temper, as well as to Lunacy and Madness. The Witness added, That he had written formerly to his Brother Captain *Washington Shirley*, about taking out a Commission of Lunacy against Lord *Ferrers*; but I could not find, that any Measures were taken in Consequence of that Opinion given by the Witness, nor did he himself ever take any Steps towards it, nor any Branch of his Family.

The last Witness called, on Behalf of the Noble Prisoner, was Doctor *Monro*. He was brought here to describe, what Symptoms he considers as Marks of Lunacy or Infanity. He said; that there were many; and on being asked particularly, as to the several Symptoms suggested in this Cause, Doctor *Monro* was led to speak principally of Three Marks of Lunacy. The First was uncommon Fury, not caused by Liquor, but raised by it. Surely this Circumstance will not infer Infanity. The Next was, Jealousy and Suspicion, with causeless Quarrelling. Do not many, who are not Lunatics, suspect or quarrel without Cause, and become dangerous to their Neighbours? The Third was, carrying Arms; which (he said) though less usual, might be a Mark of Lunacy. And it is equally true, that such Behaviour may prove, in many Cases, a bad Heart and a vicious Mind, as well as Lunacy. My Lords, the general Observation, which occurs upon Doctor *Monro's* Evidence, is this; that he did not describe any of these Things, as absolute Marks of Lunacy, so as to denote every Man a Lunatick, who was subject to them. Indeed he could not have said it, consistently with Common Sense and Experience.

This was the Import of the Evidence for the Noble Prisoner. No Witnesses were offered, on the Part of the King, in Reply to that Evidence. And, my Lords, the Reason, why they were not offered, was, because the Council who attend your Lordships for the King, chuse to submit it to your Opinions, whether the Evidence produced for the Prisoner does not tend to strengthen, rather than weaken, that Proof of Capacity, which arises out of all the Circumstances urged, in Support of the Charge? From those Circumstances, I have already shewn, that the Noble Prisoner was conscious of what he did, at the Time of the Offence committed; that he weighed the Motives; that he acted with Deliberation; that he knew the Consequences.

I will only take Notice of one Thing more. Your Lordships have attended with great Patience, and the most impartial Regard to Justice, to all the Evidence, and every Observation, which has been laid before you. You have seen the Noble Prisoner, for Two Days at your Bar, (though labouring under the Weight of this Charge), Cross-examining the Witnesses for the King, and Examining his own, in a Manner so pertinent, as cannot be imputed merely to the Hints and Advice of those Agents and Council, with which you have indulged him. I am persuaded, from the Appearance and Conduct of the Noble Prisoner, that if the Fact itself would have admitted Doubts, and probable Arguments, to repel the Force of any One material Circumstance, your Lordships would have heard him press those Arguments, with Sense and Sagacity.

But, my Lords, The Truth is, That the Fact tried this Day stands, without Alleviation. There is not a Colour for the Defence, unless it arises from the Enormity of the Crime, aggravated by the Manner of committing it; an old, faithful Servant of himself and his Family, murdered in cold Blood, whilst he was performing, by express Orders, an Act of dutiful Attendance upon his Master; murdered, in the most deliberate and wilful Manner, destructive of all Confidence in human Society. My Lords, in some Sense, every Crime proceeds from Insanity. All Cruelty, all Brutality, all Revenge, all Injustice, is Insanity. There were Philosophers, in antient Times, who held this Opinion, as a strict Maxim of their Sect; and, my Lords, the Opinion is right in Philosophy, but dangerous in Judicature. It may have a useful and a noble Influence, to regulate the Conduct of Men; to controul their impotent Passions; to teach them, that Virtue is the Perfection of Reason, as Reason itself is the Perfection of human Nature; but not to extenuate Crimes, nor to excuse those Punishments, which the Law adjudges to be their Due.

My Lords, The Necessity of his Majesty's Justice; the Necessity of public Example, called for this Prosecution; and the Effect of the whole Evidence, is submitted to the Weight and Wisdom of your Judgment.

Then the Lord High Steward returned back to his Chair.

Lord High Steward. Lieutenant of the *Tower*, Take my Lord *Ferrers* from the Bar.

Which was done accordingly.

Lord Privy Seal. My Lords, I move your Lordships to adjourn to the Chamber of Parliament.

Lords. Ay, Ay.

Lord High Steward. This House is adjourned to the Chamber of Parliament.

The Lords, and others, returned to the Chamber of Parliament, in the same Order they came down: And, after some Time, the House was adjourned again into *Westminster-Hall*; and the Peers being there seated, and the Lord High Steward in his Chair, and the House resumed, the Serjeant at Arms made Proclamation for Silence, as usual.

Lord High Steward. Your Lordships have heard the Evidence, and every thing that has been alledged on both Sides; and the Solemnity of your Proceedings requires, that your Lordships Opinions on the Question, Of Guilty or Not guilty, should be delivered severally, in the Absence of the Prisoner, beginning with the junior Baron; and that the Prisoner should afterwards be acquainted with the Result of those Opinions by me. Is it your Lordships Pleasure to proceed now to give your Opinions on the Question, Of Guilty or Not guilty?

Lords. Ay, Ay.

Then the Lord High Steward stood up uncovered; and, beginning with the youngest Peer, said,

George Lord Lyttelton, What says your Lordship? Is *Lawrence Earl Ferrers* Guilty of the Felony and Murder whereof he stands indicted, or Not guilty?

Whereupon *George Lord Lyttelton*, standing up in his Place, uncovered, and laying his Right Hand upon his Breast, answered,

Guilty, upon my Honour.

In like manner, the several Lords after-mentioned, being all that were present, answered as followeth;

Wills Lord Harwich. Guilty, upon my Honour.

William Lord Mansfield. Guilty, upon my Honour.

Horatio Lord Walpole. Guilty, upon my Honour.

Thomas Lord Hyde. Guilty, upon my Honour.

Vere Lord Vere. Guilty, upon my Honour.

William Lord Ponsonby. Guilty, upon my Honour.

Thomas Lord Archer. Guilty, upon my Honour.

Anthony Lord Feversham. Guilty, upon my Honour.
Henry Lord Ravensworth. Guilty, upon my Honour.
George Lord Anson. Guilty, upon my Honour.
Mathew Lord Fortescue. Guilty, upon my Honour.
Thomas Lord Bruce. Guilty, upon my Honour.
Samuel Lord Sandys. Guilty, upon my Honour.
Richard Lord Edgcumbe. Guilty, upon my Honour.
John Lord Chedworth. Guilty, upon my Honour.
Thomas Lord Montfort. Guilty, upon my Honour.
William Lord Talbot. Guilty, upon my Honour.
John Lord Monson. Guilty, upon my Honour.
William Lord King. Guilty, upon my Honour.
Matthew Lord Ducie. Guilty, upon my Honour.
Charles Lord Cadogan. Guilty, upon my Honour.
Richard Lord Onslow. Guilty, upon my Honour.
Allen Lord Bathurst. Guilty, upon my Honour.
Samuel Lord Masham. Guilty, upon my Honour.
Francis Lord Middleton. Guilty, upon my Honour.
John Lord Boyle. Guilty, upon my Honour.
Nathanael Lord Delamere. Guilty, upon my Honour.
John Lord Berkeley of Stratton. Guilty, upon my Honour.
John Lord Ward. Guilty, upon my Honour.
William Lord Byron. Guilty, upon my Honour.
John Lord Clifton. Guilty, upon my Honour.
John Lord St. John of Bletsoe. Guilty, upon my Honour.
Hugh Lord Willoughby of Parham. Guilty, upon my Honour.
Edward Lord Wentworth. Guilty, upon my Honour.
John Lord Willoughby of Broke. Guilty, upon my Honour.
John Lord Delawarr. Guilty, upon my Honour.
James Lord Audley. Guilty, upon my Honour.
George Lord Abergavenny. Guilty, upon my Honour.
Jacob Viscount Folkestone. Guilty, upon my Honour.
Hugh Viscount Falmouth. Guilty, upon my Honour.
Frederick Viscount Bolingbroke and St. John. Guilty, upon my Honour.
Thomas Viscount Weymouth. Guilty, upon my Honour.
Richard Viscount Say and Sele. Guilty, upon my Honour.
Stephen Earl of Ilchester. Guilty, upon my Honour.
Thomas Earl of Fauconberg. Guilty, upon my Honour.
Philip Earl of Hardwicke. Guilty, upon my Honour.
Charles Earl Cornwallis. Guilty, upon my Honour.
Francis Earl of Guilford. Guilty, upon my Honour.
Francis Seymour Earl of Hertford. Guilty, upon my Honour.
Simon Earl Harcourt. Guilty, upon my Honour.
Charles Earl of Egremont. Guilty, upon my Honour.
Hugh Earl of Northumberland. Guilty, upon my Honour.
Henry Arthur Earl of Powis. Guilty, upon my Honour.
John Earl of Buckinghamshire. Guilty, upon my Honour.
Granville Leveson Earl Gower. Guilty, upon my Honour.
Francis Earl Brooke. Guilty, upon my Honour.
John Earl of Portsmouth. Guilty, upon my Honour.
William Earl of Harrington. Guilty, upon my Honour.
Thomas Earl of Effingham. Guilty, upon my Honour.
John Earl Ashburnham. Guilty, upon my Honour.
James Earl Waldegrave. Guilty, upon my Honour.
George Earl of Pomfret. Guilty, upon my Honour.
George Earl of Macclesfield. Guilty, upon my Honour.
Philip Earl Stanhope. Guilty, upon my Honour.
William Earl Cowper. Guilty, upon my Honour.
Henry Earl of Sussex. Guilty, upon my Honour.
George Earl of Halifax. Guilty, upon my Honour.
Heneage Earl of Aylesford. Guilty, upon my Honour.
Charles Earl of Tankerville. Guilty, upon my Honour.
William Earl of Dartmouth. Guilty, upon my Honour.

William Earl of Strafford. Guilty, upon my Honour.
Edward Earl of Oxford and Earl Mortimer. Guilty, upon my Honour.
John Earl of Hyndford. Guilty, upon my Honour.
Hugh Earl of Marchmont. Guilty, upon my Honour.
George Earl of Aberdeen. Guilty, upon my Honour.
John Earl Breadalbane. Guilty, upon my Honour.
John Earl of Loudoun. Guilty, upon my Honour.
James Earl of Moray. Guilty, upon my Honour.
James Earl of Morton. Guilty, upon my Honour.
George Earl of Cholmondeley. Guilty, upon my Honour.
George William Earl of Coventry. Guilty, upon my Honour.
George Anne Earl of Albemarle. Guilty, upon my Honour.
William Henry Earl of Rockford. Guilty, upon my Honour.
Richard Earl of Scarborough. Guilty, upon my Honour.
Other Lewis Earl of Plymouth. Guilty, upon my Honour.
Robert Earl of Holderness. Guilty, upon my Honour.
George Henry Earl of Litchfield. Guilty, upon my Honour.
Anthony Ashley Earl of Shaftesbury. Guilty, upon my Honour.
George Earl of Cardigan. Guilty, upon my Honour.
Anne Holles Earl of Essex. Guilty, upon my Honour.
John Earl of Sandwich. Guilty, upon my Honour.
Sackville Earl of Thanet. Guilty, upon my Honour.
Daniel Earl of Winchelsea and Nottingham. Guilty, upon my Honour.
Charles Earl of Peterborough and Monmouth. Guilty, upon my Honour.
John Earl of Westmorland. Guilty, upon my Honour.
Charles Earl of Northampton. Guilty, upon my Honour.
Henry Earl of Lincoln. Guilty, upon my Honour.
Henry Earl of Pembroke and Montgomery. Guilty, upon my Honour.
Charles Marquis of Rockingham. Guilty, upon my Honour.
Francis Duke of Bridgewater. Guilty, upon my Honour.
Henry Duke of Chandos. Guilty, upon my Honour.
Robert Duke of Manchester. Guilty, upon my Honour.
Thomas Holles Duke of Newcastle. Guilty, upon my Honour.
Evelyn Duke of Kingston. Guilty, upon my Honour.
Peregrine Duke of Ancaster and Kesteven, Lord Great Chamberlain of England. Guilty, upon my Honour.
Archibald Duke of Argyll. Guilty, upon my Honour.
George Duke of Marlborough. Guilty, upon my Honour.
Thomas Duke of Leeds. Guilty, upon my Honour.
Charles Duke of Bolton. Guilty, upon my Honour.
Augustus Henry Duke of Grafton. Guilty, upon my Honour.
Charles Duke of Richmond. Guilty, upon my Honour.
William Duke of Cleveland and Southampton. Guilty, upon my Honour.
William Duke of Devonshire, Lord Chamberlain of his Majesty's Household. Guilty, upon my Honour.
John Duke of Rutland, Lord Steward of his Majesty's Household. Guilty, upon my Honour.
Richard Earl Temple, Lord Privy Seal. Guilty, upon my Honour.

Then the Lord High Steward, standing uncovered at the Chair, laying his Hand upon his Breast, said;

Lord High Steward. My Lords, I am of Opinion, that *Lawrence Earl Ferrers* is Guilty of the Felony and Murder whereof he stands indicted, upon my Honour.

Lord High Steward. Your Lordships have unanimously found, that *Lawrence Earl Ferrers* is Guilty of the Felony and Murder whereof he stands indicted: Is it your Lordships Pleasure that he should be called in, and acquainted therewith?

Lords. Ay, Ay.

Proclamation was then made for the Lieutenant of the Tower to bring the Prisoner to the Bar, which was done in the same Order as before; and afterwards Proclamation was made for Silence, as usual.

Lord High Steward. *Lawrence Earl Ferrers*, The Lords have considered of the Charge of Felony and Murder which has been brought against you; they have likewise considered the Evidence, and every thing which your Lordship has alledged in your Defence; and, upon the whole Matter, their Lordships have unanimously found, that you are Guilty of the Felony and Murder whereof you stand indicted.

Lord High Steward. Lieutenant of the Tower, take the Prisoner from the Bar.

Lord Privy Seal. My Lords, I move your Lordships to adjourn to the Chamber of Parliament.

Lord High Steward. Is it your Lordships Pleasure to adjourn to the Chamber of Parliament?

Lords. Ay, Ay.

Lord High Steward. This House is adjourned to the Chamber of Parliament.

Then the Lords returned, in the Order beforementioned, to the Chamber of Parliament; and, the House being there resumed, Resolved to proceed further, in order to the giving Judgment against the said *Earl Ferrers* To-morrow; and that the said Earl be brought to the Bar of the House in *Westminster-Hall*, for that Purpose, To-morrow at Eleven of the Clock in the Forenoon.

Friday, April 18th, 1760. The Third Day.

THE Lords, and others, came from the Chamber of Parliament into *Westminster-Hall*, in the same Order as on *Wednesday* last; and the Peers were there seated, and the Lord High Steward in his Chair.

Lord High Steward. My Lords, The House is resumed. Is it your Lordships Pleasure, that the Judges may be covered?

Lords. Ay, Ay.

Then the Serjeant at Arms made Proclamation for Silence, as usual; and afterwards the following Proclamation:

Serjeant at Arms. Oyez, Oyez, Oyez! Lieutenant of the Tower, bring forth your Prisoner, *Lawrence Earl Ferrers* to the Bar, pursuant to the Order of the House of Lords.

The Deputy Governor of the *Tower* brought the Prisoner to the Bar in the like Form as before; and then he kneeled down.

Lord High Steward. Your Lordship may rise.

The Serjeant at Arms made Proclamation for Silence as usual.

Lord High Steward. *Lawrence Earl Ferrers*, when you was last at this Bar, I acquainted your Lordship, That, upon your Trial, my Lords your Peers had unanimously found you Guilty of the Felony and Murder whereof you stand indicted: What has your Lordship to say, Why Judgment of Death should not pass upon you according to Law?

Earl Ferrers. I desire that the Clerk may repeat what I say—Which he did:

My Lords,

I Must acknowledge myself infinitely obliged for the fair and candid Trial your Lordships have indulged me with.

I am extremely sorry that I have troubled your Lordships with a Defence that I was always much averse to, and has given me the greatest Uneasiness; but was prevailed on by my Family to attempt it, as it was what they themselves were persuaded of the Truth of; and had proposed to prove me under the unhappy Circumstances that have been ineffectually represented to your Lordships.

This Defence has put me off from what I proposed, and what perhaps might have taken off the Malignity of the Accusation; but, as there has been no Proof made to your Lordships, can only be deemed at this Time my own Assertion: But that I must leave to your Lordships.

My Lords, I have been informed of this Intention of the Family before ; and your Lordships I hope, will be so good to consider, the Agony of Mind a Man must be under, when his Liberty and Property are both attacked : My Lords, under these unhappy Circumstances, though the Plea I have attempted was not sufficient to acquit me to your Lordships, according to the Laws of this Country ; yet I hope your Lordships will think, that Malice, represented by the Council for the Crown, could not subsist ; as I was so unhappy as to have no Person present at the Time of the fatal Accident, it was impossible for me to shew your Lordships, that I was not at that Instant possessed of my Reason.

As the Circumstances of my Case are fresh in your Lordships Memories, I hope your Lordships will, in Compassion to my Infirmities, be kind enough to recommend me to his Majesty's Clemency.

My Lords, As I am uncertain whether my unhappy Case is within the late Act of Parliament, if your Lordships should be of Opinion that it is, I humbly hope the Power of respiting the Execution will be extended in my Favour, that I may have an Opportunity of preparing myself for the great Event, and that my Friends may be permitted to have Access to me.

If any Thing I have offered should be thought improper, I hope your Lordships will impute it to the great Distress I am under at this Juncture.

Lord High Steward. Has your Lordship any Thing else to offer ?

Earl Ferrers. No.

Lord High Steward. Make Proclamation for Silence whilst Judgment is giving.

Serjeant at Arms. Oyez, Oyez, Oyez ! Our Sovereign Lord the King doth strictly charge and command all manner of Persons to keep Silence, whilst Judgment is giving, upon Pain of Imprisonment.

Lord High Steward.

Lawrence Earl Ferrers,

HIS Majesty, from his Royal and Equal Regard to Justice, and his steady Attention to our Constitution, (which hath endeared him in a wonderful Manner to the universal Duty and Affection of his Subjects) hath commanded this Inquiry to be made, upon the Blood of a very ordinary Subject, against your Lordship, a Peer of this Realm : Your Lordship hath been arraigned ; hath pleaded, and put yourself on your Peers ; and they (whose Judicature is founded and subsists in Wisdom, Honour, and Justice) have found your Lordship unanimously Guilty of the Felony and Murder charged in the Indictment.

It is usual, my Lord, for Courts of Justice, before they pronounce the dreadful Sentence ordained by the Law, to open to the Prisoner the Nature of the Crime of which he is convicted ; not in order to aggravate or afflict, but to awaken the Mind to a due Attention to, and Consideration of, the unhappy Situation into which he hath brought himself.

My Lord, The Crime of which your Lordship is found Guilty, Murder, is incapable of Aggravation ; and it is impossible, but that, during your Lordship's long Confinement, you must have reflected upon it, represented to your Mind in its deepest Shades, and with all its Train of dismal and detestable Consequences.

As your Lordship hath received no Benefit, so you can derive no Consolation from that Refuge you seemed almost ashamed to take, under a pretended Insanity ; since it hath appeared to us all, from your Cross-examination of the King's Witnesses, that you recollected the minutest Circumstances of Facts and Conversations, to which you and the Witnesses only could be privy, with the Exactness of a Memory more than ordinarily sound ; It is therefore as unnecessary as it would be painful to me, to dwell longer on a Subject so black and dreadful.

It is with much more Satisfaction, that I can remind your Lordship, that though, from the present Tribunal, before which you now stand, you can receive nothing but strict and equal Justice ; yet you are soon to appear before an Almighty Judge, whose unfathomable Wisdom is able, by Means incomprehensible to our narrow Capacities, to reconcile Justice with Mercy ; but your Lordship's Education must have informed you, and you are now to remember, such Beneficence is only to be obtained by deep Contrition, sound, unfeigned, and substantial Repentance.

Confined strictly, as your Lordship must be, for the very short Remainder of your Life ; according to the Provision of the late Act ; yet, from the Wisdom of the Legislature, which, to prevent as much as possible this heinous and horrid Offence of Murder, hath added Infamy to Death : You will be still, if you please, intitled to converse and communicate with the ablest Divines of the Protestant Church, to whose pious Care and Consolation, in fervent Prayer and Devotion, I most cordially recommend your Lordship.

Nothing

Nothing remains for me, but to pronounce the dreadful Sentence of the Law ; and the Judgment of the Law is, and this High Court doth award ;

“ That You, *Lawrence Earl Ferrers*, return to the Prison of the *Tower*, from whence you
 “ came ; from thence you must be led to the Place of Execution, on *Monday* next,
 “ being the 21st Day of this Instant *April* ; and when you come there, you must be
 “ hanged by the Neck till you are dead, and your Body must be dissected and anat-
 “ mized.”

“ And God Almighty be merciful to your Soul.”

Lord High Steward. Lieutenant of the *Tower*, Take the Prisoner from the Bar.
 Which being done, Proclamation was made for Silence, as usual.

Lord High Steward. My Lords, This Trial being at an End, nothing remains to be done here, but to determine the Commission.

Lords. Ay, Ay.

Lord High Steward. Let Proclamation be made for dissolving the Commission of High Steward.

Serjeant at Arms. Oyez, Oyez, Oyez ! Our Sovereign Lord the King does strictly charge and command all manner of Persons here present, and that have here attended, to depart hence in the Peace of God, and of our said Sovereign Lord the King ; for his Grace my Lord High Steward of *Great Britain* intends now to dissolve his Commission.

Then the White Staff being delivered to the Lord High Steward, by the Gentleman Usher of the Black Rod, upon his Knee, his Grace stood up uncovered ; and, holding the Staff in both his Hands, broke it in two, and declared the Commission to be dissolved ; and then leaving the Chair, came down to the Woolpack, and said, Is it your Lordships Pleasure to adjourn to the Chamber of Parliament ?

Lords. Ay, Ay.

Lord High Steward. This House is adjourned to the Chamber of Parliament.

Then the Lords and others returned in the same Order they came down.

And the Prisoner was carried back to the *Tower* of *London*.

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